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PART II

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Department of Agriculture

Agricultural Marketing Service

Handling of Milk in Certain Marketing Areas

Washington, D.C., Etc.

Final Orders

Title 7—AGRICULTURE

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

HANDLING OF MILK IN CERTAIN MARKETING AREAS; WASHINGTON, D.C., ETC.

Order Amending Orders

7 CFR Part and Marketing Area

1003, Washington, D.C.
1005, Tri-State.
1008, Greater Wheeling, W. Va.
1009, Clarksburg, W. Va.
1011, Appalachian.
1013, Southeastern Florida.
1016, Upper Chesapeake Bay.
1033, Greater Cincinnati.
1034, Dayton-Springfield, Ohio.
1035, Columbus, Ohio.
1036, Northeastern Ohio.
1037, North Central Ohio.
1040, Southern Michigan.
1041, Toledo, Ohio.
1042, Muskegon, Mich.
1043, Upstate Michigan.
1044, Michigan Upper Peninsula.
1046, Louisville-Lexington-Evansville.
1047, Fort Wayne, Ind.
1048, Greater Youngstown-Warren.
1049, Indianapolis, Ind.
1090, Chattanooga, Tenn.
1098, Nashville, Tenn.
1101, Knoxville, Tenn.

Section 0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein. The following findings are hereby made with respect to each of the aforesaid orders.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the above designated marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1964. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary of Agriculture was issued January 23, 1964, and the decision of the Assistant Secretary of Agriculture containing all amendment provisions of this order, was issued June 19, 1964. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1964, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

[The following determination is made with respect to each of the orders amending the orders regulating the handling of milk in the Washington, D.C.; Greater Wheeling, W. Va.; Clarksburg, W. Va.; Appalachian; Southeastern Florida; Upper Chesapeake Bay; Greater Cincinnati; Dayton-Springfield, Ohio; Columbus, Ohio; Northeastern Ohio; Southern Michigan; Muskegon, Michigan; Upstate Michigan; Louisville-Lexington-Evansville; Fort Wayne, Indiana; Greater Youngstown-Warren; Indianapolis; Nashville and Knoxville, Tennessee, marketing areas.]

(3) The issuance of the order amending the order is favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

[The following determination is made with respect to the order amending the orders regulating the handling of milk in the North Central Ohio; Toledo, Ohio; Michigan Upper Peninsula and Tri-State marketing areas.]

(3) The issuance of the order amending the order is favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

[The following determination is made with respect to the order amending the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area.]

(3) The issuance of the order amending the order is favored by at least two-thirds of the producers who particiapted in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the respective designated marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid orders, as amended and as hereby amended, as follows:

PART 1003—MILK IN WASHINGTON, D.C., MARKETING AREA

1. In § 1003.9, the section title and the introductory text preceding paragraph (a) is revised, and a new paragraph (c) is added to read as follows:

§ 1003.9 Pool plants and nonpool plants.

A "pool plant" means any plant described in this section pursuant to paragraph (a) or (b) of this section; a "nonpool plant" means any plant described pursuant to paragraph (c) of this section;

* * * * *

(c) Any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(1) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(2) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(3) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products in consumer-type packages or dispenser units approved by a duly constituted health authority for fluid disposition are distributed on routes in the marketing area during the month.

(4) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products approved by a duly constituted health authority for fluid disposition are shipped to a pool plant.

2. In § 1003.10, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 1003.10 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant or a partially regulated distributing plant;

* * * * *

(d) A producer-handler, or any person who operates an other order plant described in § 1003.61.

§ 1003.15 [Amendment]

3. In the text of § 1003.15 preceding the first proviso and immediately following the words "producer-handler" a phrase is inserted which reads "as defined in any order (including this part) issued pursuant to the Act".

§§ 1003.17, 1003.19 [Vacated]

4. In § 1003.16 the heading is revised and a new paragraph is included; §§ 1003.17 and 1003.19 are vacated and the provisions formerly contained therein are now included in § 1003.16. Section 1003.16 as revised now reads as follows:

§ 1003.16 Definitions of milk and milk products.

(a) "Fluid milk product" means milk and skim milk, concentrated milk (including frozen concentrated milk), reconstituted or fortified milk and skim milk, flavored milk and skim milk and cultured skim milk, buttermilk, cream (except aerated cream and sour cream) and any mixture of cream and milk or skim milk except eggnog: *Provided*, That such fluid milk products shall not include products which are packaged in hermetically sealed containers;

(b) "Producer milk" means any skim milk or butterfat contained in milk:

(1) Received directly at a pool plant from producers;

(2) Received from producers by a cooperative association in its capacity as a handler pursuant to § 1003.10(c); or

(3) Diverted in accordance with the provisions of § 1003.15;

(c) "Other source milk" means all skim milk and butterfat contained in or represented by:

(1) Receipts (including any Class II milk product produced in the handler's plant during a prior month) in a form other than as fluid milk products which are reprocessed, converted or combined with another product during the month; and

(2) Receipts in the form of fluid milk products from any source other than producers, pool plants, or from a cooperative association in its capacity as a handler pursuant to § 1003.10(c);

(d) "Base milk" means milk received from a producer by a pool handler during any of the months of April through June of each year which is not in excess of such producer's daily average base computed pursuant to § 1003.63 multiplied by the number of days on which such producer's milk was received by such pool handler during the month: *Provided*, That with respect to any producer on every-other-day delivery, a day of nondelivery following a day on which delivery is made shall be considered as a day of delivery for purpose of this paragraph; and

(e) "Excess milk" means milk received from a producer by a pool handler during any of the months of April through June which is in excess of base milk received from such producer during such month.

4a. In § 1003.22, additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1003.22 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1003.46(a)(8) and the corresponding step of § 1003.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1003.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1003.30 is revised to read as follows:

§ 1003.30 Reports of receipts and utilization.

(a) On or before the 8th day after the end of each month each cooperative association in its capacity as a handler and each pool handler with respect to each of his pool plants shall report for the month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in (i) receipts of producer milk (including such handler's own production), (ii) receipts of fluid milk products from other pool plants, and milk received from a cooperative association for which it is a handler pursuant to § 1003.10(c), and (iii) receipts of other source milk;

(2) Inventories of fluid milk products on hand at the beginning and end of the month; and

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph;

(b) Each handler specified in § 1003.10(a) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(c) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

6. In § 1003.31, a new paragraph (e) is added to read as follows:

§ 1003.31 Other reports.

* * * * *

(e) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1003.62(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom he receives milk.

7. In § 1003.41, paragraph (a) and subparagraphs (5), (6), and (7) of paragraph (b) are revised to read as follows:

§ 1003.41 Classes of utilization.

* * * * *

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form for human consumption in the form of a fluid milk product: *Provided,* That any product fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified fluid milk product of the same butterfat content; and

(2) Not specifically accounted for as Class II milk.

(b) * * *

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1003.42(b)(1), but not to exceed the following:

(i) Two percent of producer milk received at a pool plant for the account of the plant operator; plus

(ii) One and one-half percent of milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1003.10(c), except that the applicable percentage shall be two percent if the handler operating the pool plant files notice with the market administrator on or before the date he submits his monthly report applicable to such milk pursuant to § 1003.30 that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations, and at butterfat tests based on samples taken at the farm; plus

(iii) One and one-half percent of milk received at a pool plant in bulk tank lots from other pool plants; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the handler (and by the operator of such other order plant if such receipt is fully subject to the classification and pricing provisions of such other order); plus

(v) One and one-half percent of receipts from dairy farmers who are not producers and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk moved in bulk tank lots from a pool plant to other plants; and plus

(vii) One-half of one percent in receipts of producer milk by a cooperative association in its capacity as a handler pursuant to § 1003.10(c) unless the exception provided in subdivision (ii) of this subparagraph applies;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1003.42(b)(2);

(7) Disposed of in bulk to any commercial food establishment for use on the premises in the manufacture of soup, candy, bakery products, or any other nondairy commercial food product: *Provided,* That such establishment does not dispose of any fluid milk product;

8. Section 1003.42 is revised to read as follows:

§ 1003.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts described in § 1003.41(b)(5); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1003.41(b)(5).

9. Section 1003.44 is revised to read as follows:

§ 1003.44 Transfers.

Skim milk and butterfat in the form of any fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant or a cooperative association as a handler pursuant to § 1003.10(c) to a pool plant, unless Class II utilization is indicated by the transferee and transferor handlers in their reports pursuant to § 1003.30(a) for the month, subject to the conditions of subparagraphs (1), (2), (3), and (4) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1003.46(a)(8) and the corresponding step of § 1003.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1003.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1003.46 (a)(7) or (8) and the corresponding steps of § 1003.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If a specified utilization is not claimed by both handlers pursuant to this paragraph in the case of skim milk and butterfat transferred to a pool plant of another handler by a cooperative association in its capacity as a handler pursuant to §1003.10(c), such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the receiving handler after making the assignments pursuant to § 1003.46(a)(8) and the corresponding step of § 1003.46(b) and after assignment of milk for which specified classification has been claimed by handlers pursuant to this paragraph;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred or diverted to a nonpool approved plant that is neither an other order plant nor a producer-handler plant, unless otherwise classified on the basis of the following assignment of utilization at such nonpool approved plant, in excess of receipts of packaged fluid milk products from all pool plants and other order plants, pursuant to subparagraphs (1) through (4) of this paragraph:

(1) Any Class I utilization disposed of on routes in the marketing area shall be first assigned pro rata to the skim milk and butterfat transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute such nonpool approved plant's regular source of supply of milk which is approved by a duly constituted health authority for fluid disposition;

(2) Any Class I utilization disposed of on routes in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute such nonpool approved plant's regular source of supply of milk which is approved by a duly constituted health authority for fluid disposition;

(3) Class I utilization at such nonpool approved plant not assigned pursuant to subparagraphs (1) and (2) of this paragraph shall be assigned as follows: first pro rata to any quantities of skim milk and butterfat transferred or diverted to the nonpool approved plant to the extent that transfers from such nonpool plants to pool plants are assigned to Class I milk in such pool plant pursuant to § 1003.46(a)(7), next to the remaining receipts from dairy farmers who the market administrator determines constitute such nonpool plant's regular source of supply of milk which is approved by a duly constituted health authority for fluid disposition, and thereafter pro rata to unassigned receipts at such nonpool plants from all pool and other order plants; and

(4) The remaining skim milk and butterfat so transferred or diverted shall be Class II to the extent that an equivalent Class II utilization is available in the nonpool approved plant; and

(d) As Class I milk, if transferred in bulk in the form of milk, skim milk or cream, or diverted to a nonpool plant other than an approved plant, other order plant or a producer-handler plant, located 300 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the zero milestone in Washington, D.C., except that cream so transferred may be classified as Class II if the transferor claims such classification, gives sufficient notice so that the market administrator may verify conditions of shipment, establishes such cream was transferred without approval of a duly constituted health authority for fluid disposition, labels each container to show that the contents are for manufacturing only, and such shipment is so invoiced;

(e) As Class I milk, if transferred in bulk in the form of milk, skim milk, or cream, or diverted in bulk to a nonpool plant other than an approved plant, other order plant or a producer-handler plant, located less than 300 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the zero milestone in Washington, D.C., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in

accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1003.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute such nonpool plant's regular sources of supply of milk which is approved by a duly constituted health authority for fluid disposition; and

(ii) The remaining skim milk and butterfat so transferred or diverted shall be Class II to the extent claimed by the transferor handler if an equivalent Class II utilization is available in the nonpool plant: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in Class II, the remaining pounds shall be classified as Class I milk; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1003.41.

10. Section 1003.46 is revised to read as follows:

§ 1003.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1003.45, the market administrator shall determine the classification of producer milk at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1003.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which approval by a duly constituted health authority for fluid disposition is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products for which the handler requests Class II utilization which were received from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating the plant, and from dairy farmers who are not producers, but not in any case to exceed the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of other source milk in the form of fluid milk products from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, to the extent that the total of such receipts are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, receipts from pool plants of other handlers, from a cooperative association in its capacity as a handler pursuant to § 1003.10(c) and in receipts in bulk from other order plants classified and priced pursuant to the applicable order; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in other source milk in the form of fluid milk products from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant if classified and priced pursuant to the other order and if Class II utilization was requested by the operator of such plant and the transferee handler, but not in excess of the pounds of skim milk remaining in Class II milk;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants, from other order plant(s) if not classified or priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any

class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from other order plants (except receipts from other order plant(s) not classified and priced pursuant to the order regulating such plant), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph, pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1003.22(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1003.10(c) according to the classification assigned pursuant to § 1003.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1003.52 is revised to read as follows:

§ 1003.52 Location adjustments to handlers.

(a) For that milk which is received from producers (including milk received by a cooperative association as a handler pursuant to § 1003.10(c)) at a pool plant located 75 miles or more by shortest hard-surfaced highway distance as determined by the market administrator from the zero milestone in Washington, D.C., and which is assigned to Class I milk subject to the limitations pursuant to paragraph (b) of this section, and for other source milk assigned Class I location adjustment credit pursuant to § 1003.70, the price computed pursuant to § 1003.50(a) shall be reduced by 12 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which is in excess of the receipts at such plant as specified in subparagraphs (1), (2) and (3) of this paragraph, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply:

(1) Receipts from producers, and cooperative associations pursuant to § 1003.10(c);

(2) Receipts assigned as Class I from other order plants; and

(3) Receipts assigned as Class I from unregulated supply plants and from dairy farmers who are not producers.

12. Section 1003.62 is revised to read as follows:

§ 1003.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1003.30(b) and 1003.31(e) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1003.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1003.70(e) and a credit in the amount specified in § 1003.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1003.30(b) and 1003.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1003.9, with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk (approved by a duly constituted health authority for fluid disposition) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

13. Section 1003.70 is revised to read as follows:

§ 1003.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1003.46(c), by the applicable class prices (adjusted pursuant to §§ 1003.51 and 1003.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1003.46(a)(10) and the corresponding step of § 1003.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1003.46(a)(5) and the corresponding step of § 1003.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1003.46(a)(3) and the corresponding step of § 1003.46(b);

(e) Add an amount equal to the values of skim milk and butterfat determined pursuant to subparagraphs (1) and (2) of this paragraph as follows:

(1) The value at the Class I price of skim milk and butterfat received from dairy farmers who are not producers assigned to Class I pursuant to § 1003.46(a)(7), and the corresponding step of § 1003.46(b), adjusted pursuant to § 1003.52;

(2) The value at the Class I price of skim milk and butterfat assigned to Class I pursuant to § 1003.46(a)(7), and the corresponding step of § 1003.46(b), excluding milk from dairy farmers who are not producers, adjusted for the location of the nearest plants from which such types of receipts were received; and

(f) Add or subtract as the case may be, an amount necessary to correct errors discovered by the market administrator in verification of reports of sueh handler of his receipts and utilization of skim milk and butterfat for previous months.

14. Section 1003.71 is revised to read as follows:

§ 1003.71 Computation of uniform and weighted average prices.

For each month the market administrator shall compute the weighted average price and for each of the months of July through March the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1003.70 for all handlers who filed the reports prescribed by § 1003.30 for the month and who made the payments pursuant to § 1003.84 for the preceding month:

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1003.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1003.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1003.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price" and shall be the "uniform price", per hundredweight of milk of 3.5 percent butterfat received from producers in each of the months of July through March.

15. Section 1003.72 is revised to read as follows:

§ 1003.72 Computation of uniform prices for base milk and excess milk.

For each of the months of April through June the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, shall be as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1003.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers and assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the amount resulting from the computations of § 1003.71(a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1003.71(e)(2) by the weighted average price;

(d) Subtract the total value of excess milk, determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 1003.80 [Amendment]

16. In § 1003.80 the reference "§ 1003.72 (e)" is changed to read "§ 1003.72(f)".

17. Section 1003.82 is revised to read as follows:

§ 1003.82 Location differentials to producers and on nonpool milk.

(a) In making payments to producers or to a cooperative association pursuant to § 1003.80 (a) and (b) except with respect to excess milk, a handler, with respect to all such milk received at pool plants located 75 miles by shortest highway distance from the zero milestone in the District of Columbia, as determined by the market administrator, and a cooperative association, with respect to all such milk received by it in its capacity as a handler pursuant to § 1003.10 (b) or (c), at the location of such plant, shall deduct 12 cents per hundredweight plus 1.5 cents for each 10-mile additional distance, or fraction thereof, which such plant is located from such milestone.

(b) For purposes of computations pursuant to §§ 1003.84 and 1003.85 the weighted average price shall be reduced at the rates set forth in paragraph (a) of this section applicable at the location of the plant(s) at which the milk was received with respect to other source milk for which a value is computed pursuant to § 1003.70(e)(1) and at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1003.70(e)(2).

§ 1003.83 [Amendment]

18. In § 1003.83 the designation "1003.62(c)" is changed to "1003.62 (a) and (b)"

19. Section 1003.84 is revised to read as follows:

§ 1003.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1003.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1003.71 and 1003.72 adjusted by producer butterfat and location differentials; and

(2) The value at the weighted average price adjusted by the producer butterfat differential pursuant to § 1003.81 and the location differential on nonpool milk pursuant to § 1003.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1003.70(e).

20. Section 1003.85 is revised to read as follows:

§ 1003.85 **Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1003.84(b) exceeds the amount computed pursuant to § 1003.84(a): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

21. Section 1003.88 is revised to read as follows:

§ 1003.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler excluding a cooperative association in its capacity as a handler pursuant to § 1003.10(c), shall pay to the market administrator on or before the 18th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own farm production) and milk received from a cooperative association in its capacity as a handler pursuant to § 1003.10(c), (b) other source milk allocated to Class I pursuant to § 1003.46(a) (3) and (7) and the corresponding steps of § 1003.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1005—MILK IN TRI-STATE MARKETING AREA

1. Section 1005.8 is revised to read as follows:

§ 1005.8 Fluid milk plant.

"Fluid milk plant" means any plant from which a route is operated within the marketing area, except a producer-handler plant or an other order plant defined pursuant to § 1005.11 (a) and (b).

2. Section 1005.11 is revised to read as follows:

§ 1005.11 Nonfluid milk plant.

"Nonfluid milk plant" means any plant which is not a fluid milk plant or supply plant and is utilized for receiving, processing or manufacturing of milk or milk products. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means a nonfluid milk plant other than a producer-handler plant or an other order plant, from which fluid milk products approved by a duly constituted health authority for fluid consumption are shipped to a fluid milk plant or a supply plant.

3. Section 1005.13 is revised to read as follows:

§ 1005.13 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a dairy farm inspection permit or equivalent certification given by a duly constituted health authority for the production of milk for fluid consumption, and whose milk is:

(a) Received at a fluid milk plant or supply plant (including milk caused to be delivered to such plant by a cooperative association which is not the handler for such milk); or

(b) Diverted by a handler for his account to a nonfluid milk plant not an other order plant during April, May, June or July.

4. Section 1005.14 is revised to read as follows:

§ 1005.14 Handler.

"Handler" means:

(a) Any person who operates a fluid milk plant or supply plant;

(b) A producer handler; and

(c) Any person who operates an other order plant described in § 1005.61.

5. Section 1005.15 is revised to read as follows:

§ 1005.15 Producer-handler.

"Producer-handler" means any person who produces milk, operates a milk plant from which a route is operated within the marketing area and at which no milk is received from other dairy farmers.

5a. In § 1005.22, additional paragraphs (k) and (l) are added and read as follows:

§ 1005.22 Duties.

* * * * *

(k) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1005.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(l) Furnish to each handler operating a fluid milk plant or supply plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. In § 1005.31, paragraph (a) is revised to read as follows:

§ 1005.31 Other reports.

* * * * *

(a) The intention to receive other source milk shall be reported by the receiving handler who operates a fluid milk plant or supply plant on or before

the 1st day other source milk is received and the intention to discontinue such receipts shall be reported on or before the last day such milk is received;

7. Section 1005.40 is revised to read as follows:

§ 1005.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported for each fluid milk plant or supply plant pursuant to § 1005.30 shall be classified by the market administrator pursuant to the provisions of §§ 1005.41 through 1005.46.

8. Section 1005.41 is revised to read as follows:

§ 1005.41 Classes of utilization.

Subject to the conditions set forth in §§ 1005.42 through 1005.46, the classes of utilization at each fluid milk plant or supply plant operated by the handler shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b)(2) and (3) of this section; or

(2) Not specifically accounted for as Class II milk; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products which have been fortified with nonfat milk solids which are not accounted for as Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Disposed of for livestock feed or, in the case of skim milk and buttermilk only, dumped, upon prior notice as prescribed by the market administrator;

(4) Disposed of in bulk (other than consumer-type packages or dispenser units) to bakeries, candy or soup manufacturers, and other commercial food manufacturing establishments which do not dispose of any such receipts in the form of fluid milk products;

(5) In inventory of fluid milk products on hand at the end of the month;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1005.42(b)(1), but not to exceed two percent of the total receipts of skim milk and butterfat in (i) producer milk, (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantities for which Class II utilization was requested by the handler; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1005.42(b)(2).

9. Section 1005.42 is revised to read as follows:

§ 1005.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant operated by the handler; and

(b) Shrinkage computed pursuant to paragraph (a) of this section shall be prorated between (1) skim milk and butterfat contained in producer milk and other milk receipts described in § 1005.41(b)(6); and (2) skim milk and butterfat in remaining other source milk exclusive of those pounds specified in § 1005.41(b)(6): *Provided,* That receipts from other fluid milk plants and supply plants of another handler at each plant to which the computations pursuant to this paragraph apply, shall be deducted from the total receipts prior to making the computations.

10. Section 1005.44 is revised to read as follows:

§ 1005.44 Transfers.

(a) Skim milk or butterfat transferred from a fluid milk plant (including diverted milk, in the case of movements to nonfluid milk plants under subparagraph (3) of this paragraph) in the form of fluid milk products shall be classified as follows:

(1) If transferred to a fluid milk plant or supply plant, it shall be classified as Class I milk unless utilization in Class II milk is reported to the market administrator by both handlers pursuant to § 1005.30: *Provided,* That the classification of such transfer is subject to the following:

(i) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1005.46(a)(7) and the corresponding step in § 1005.46(b) and the classification of any transfers pursuant to paragraph (b) of this section;

(ii) If the transferor handler received during the month other source milk to be allocated pursuant to § 1005.46(a)(3) and the corresponding step in § 1005.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor handler received during the month other source milk to be allocated pursuant to § 1005.46(a)(7) and the corresponding step of § 1005.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(2) If transferred to a producer-handler, the skim milk and butterfat shall be Class I milk;

(3) If transferred or diverted to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, the skim milk and butterfat shall be Class I milk unless:

(i) Other utilization is mutually indicated in writing to the market administrator by both the transferor and transferee on or before the 5th day after the end of the month within which such transfer was made;

(ii) The transferee plant maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for audit; and

(iii) Such transferee plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided,* That if such transferee plant had not actually used an equivalent amount of skim milk or butterfat in such indicated use, the remaining balance shall be classified in Class I milk to the extent of Class I milk remaining in utilization at the nonfluid milk plant after any Class I utilization disposed of by the nonfluid milk plant on routes in the marketing area of another order issued pursuant to the Act is first assigned to receipts from plants fully regulated by such order, and next pro rata to receipts from other order plants not regulated by such order.

(4) If transferred to an other order plant in excess of receipts from such plant in the same category as described in subdivision (i), (ii) or (iii) of this subparagraph:

(i) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(ii) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subdivision (iii) of this subparagraph);

(iii) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(iv) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this subparagraph, classification shall be as Class I, subject to adjustment when such information is available;

(v) For purposes of this subparagraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(vi) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1005.41.

(b) Skim milk and butterfat transferred in the form of fluid milk products from a supply plant to a fluid milk plant or to another supply plant (except as provided in paragraph (c) of this section) shall be classified as reported to the market administrator by both

handlers on or before the 5th day after the end of the month within which such transfer was made: *Provided*, That the classification of such transfer is subject to the following:

(1) If the transferor handler received during the month other source milk to be allocated pursuant to § 1005.46(a)(3) and the corresponding step in § 1005.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1005.46(a)(7) and the corresponding step of § 1005.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant: *And provided further*, That the sum of the amounts assigned as Class I milk for any month during the period October through January, inclusive, to all supply plants supplying a fluid milk plant shall not result in the classification as Class II milk of more than 10 percent of the quantity of milk received directly from producers at such fluid milk plants during the month.

(c) During each of the months of February through September, inclusive, a handler operating a fluid milk plant may allocate Class I milk to a supply plant(s) which transferred milk to such fluid milk plant for at least three of the months of October through January immediately preceding even though such milk is not transferred physically to such fluid milk plant during the current month:

Provided, That the pounds to be allocated pursuant to this paragraph and to be subtracted pursuant to § 1005.46(a)(8) and the corresponding step of § 1005.46(b), when added to any quantities actually transferred from such supply plant to such fluid milk plant during the current month and which are assigned to Class I milk pursuant to paragraph (b) of this section, shall not exceed the least of the following amounts:

(1) The monthly average number of pounds allocated to Class I milk from such fluid milk plant to such supply plant during the preceding period October through January, inclusive;

(2) An amount computed as follows: Determine the percentage which the pounds of Class I milk described under subparagraph (1) of this paragraph bears to the monthly average pounds of Class I milk at such fluid milk plant for the preceding October through January, inclusive; and multiply the total Class I milk at such fluid milk plant for the current month by such percentage; and

(3) The pounds of milk received from producers at such supply plant during the current month.

(d) Skim milk and butterfat in fluid milk products transferred or diverted from a supply plant to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, shall be classified in the same manner as transfers or diversions from a fluid milk plant pursuant to paragraph (a)(3) of this section and, if transferred from a supply plant to an other order plant, it shall be classified in the same manner as transfers from a fluid milk plant pursuant to paragraph (a)(4) of this section.

11. Section 1005.45 is revised to read as follows:

§ 1005.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1005.30 for each fluid milk plant or supply plant operated by the handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at each plant for such handler: *Provided*, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

12. Section 1005.46 is revised to read as follows:

§ 1005.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1005.45, the market administrator shall determine the classification of producer milk received at each fluid milk plant and supply plant operated by the handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1005.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity;

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other fluid milk plants or supply plants, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products, from other fluid milk plants and supply plants assigned to such classes pursuant to § 1005.44 (a) or (b), or which were allocated pursuant to § 1005.44(c): *Provided*, That with respect to skim milk allocated pursuant to § 1005.44(c), there is added an equivalent quantity of Class II utilization at the fluid milk plant; and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

13. Section 1005.70 is revised to read as follows:

§ 1005.70 Computation of the net obligation of each handler.

The net obligation of each handler for producer milk received at each fluid milk plant or supply plant or diverted pursuant to § 1005.13 during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1005.46(c), by the applicable class prices (adjusted pursuant to §§ 1005.53 and 1005.56) and add together the resulting amounts:

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1005.46(a)(9) and the corresponding step of § 1005.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1005.46(a)(5) and the corresponding step of § 1005.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1005.46(a)(7)(i) and the corresponding step of § 1005.46(b) for the preceding month;

(d) With respect to each hundredweight of Class I milk allocated to a supply plant(s) pursuant to § 1005.44(c), there shall be added an amount computed by multiplying such hundredweight of milk by the amount, if any, by which the Class I price at the fluid milk plant exceeds the Class I price applicable at the respective supply plant; and

(e) At any supply plant, with respect to Class I utilization allocated to such plant pursuant to § 1005.44(c), add the amount computed by multiplying the difference between the Class I price at such supply plant and the Class II price by the quantity of Class I utilization so allocated.

14. Section 1005.71 is revised to read as follows:

§ 1005.71 Computation of uniform price.

For each month the market administrator shall compute for each handler a "uniform price" per hundredweight to be paid to producers and associations of producers for producer milk of 3.5 percent butterfat content as follows:

(a) Adjust the value of milk computed for each handler as follows:

(1) Add or subtract for each one-tenth percent that the average butterfat content of producer milk is less or more, respectively, than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1005.82 and multiplying the result by the hundredweight of producer milk;

(2) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months;

(3) Add if a deduction was made, or subtract if an addition was made, in computing the uniform price for such handler to the nearest cent for the preceding month the amount of such adjustment;

(4) Add the total value of location adjustments on producer milk if applicable pursuant to § 1005.83;

(b) Divide the amount resulting from the computations pursuant to paragraph (a) of this section by the hundredweight of producer milk included therein and adjust to the nearest whole cent;

(c) Adjust the result computed pursuant to paragraph (b) of this section by the location differentials as specified in § 1005.83. The result for each plant shall be the uniform price per hundredweight for producer milk of 3.5 percent butterfat content received at such plant.

15. Section 1005.83 is revised to read as follows:

§ 1005.83 Location adjustments to producers.

If the uniform price at any fluid milk plant or supply plant is computed pursuant to § 1005.71 in combination with another plant at which a different Class I price applies, the uniform price shall be reduced by the amount (if any) that the Class I price at the plant is less than the highest Class I price at any of the plants included.

16. Section 1005.85 is revised to read as follows:

§ 1005.85 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, to be announced by the market administrator on or before the 12th day after the end of such month with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1005.46(a)(3) and (7)(i) and the corresponding steps of § 1005.46(b): *Provided*, That if a handler uses more than one accounting period within a month, the rate of payment with respect to the quantities of milk specified in this section shall be the monthly rate multiplied by the number of accounting periods within the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

PART 1008—MILK IN GREATER WHEELING MARKETING AREA

1. Section 1008.6 is revised to read as follows:

§ 1008.6 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority having jurisdiction in the marketing area, and whose milk is received during the month at a pool plant: *Provided,* That if such milk is diverted from a pool plant by a handler to a nonpool plant (except an other order plant defined pursuant to § 1008.11) for his account any day during the months of March through July or on not more than 10 days (5 days in the case of every-other-day delivery) during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

2. Section 1008.11 is revised to read as follows:

§ 1008.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

3. Section 1008.12 is revised to read as follows:

§ 1008.12 Handler.

"Handler" means:

(a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1008.6;

(b) Any person in his capacity as the operator of one or more pool plants;

(c) A cooperative association with respect to Grade A milk it receives from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and delivered in such tank truck to a pool plant: *Provided,* That such milk shall be deemed to have been received directly from producers at the location of the pool plant to which it is delivered by the tank truck;

(d) Any person in his capacity as the operator of a partially regulated distributing plant; or

(e) A producer-handler, or any person who operates an other order plant described in § 1008.61 (a) and (b).

3A. In § 1008.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1008.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1008.46(a)(8) and the corresponding step of § 1008.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1008.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. Section 1008.30 is revised to read as follows:

§ 1008.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a handler as defined pursuant to § 1008.12(e), shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk;

(2) Fluid milk products received from other pool plants and from a cooperative association as a handler pursuant to § 1008.12(c);

(3) Other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) Milk caused to be moved from a producer's farm to a plant of another handler;

(6) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including separate statements as to the disposition of Class I milk outside the marketing area; and

(7) Such other information with respect to his receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler specified in § 1008.12 (d) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

5. Section 1008.31 is revised to read as follows:

§ 1008.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request;

(b) Each handler who receives milk from producers shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each of the months of May through August the aggregate quantity of base milk received for the preceding month;

(2) On or before the 20th day after the end of the month, his producer payroll for such month which shall show for each producer: (i) His name and address; (ii) the total pounds of milk received from such producer, including for the months of April through July, the pounds of base milk; (iii) the days for which milk was received from such producer if less than the entire month; (iv) the average butterfat content of such milk; and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;

(3) On or before the day prior to diverting producer milk pursuant to § 1008.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted; and

(c) Each handler who is the operator of a partially regulated distributing plant and who does not elect to make payments pursuant to § 1008.62(b), shall report for each such plant to the market administrator in the detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom Grade A milk was received, the following:

(1) His name and address;

(2) The total pounds of milk received from such dairy farmer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment to the dairy farmer, together with the price paid and the amount and nature of any deductions.

6. Section 1008.46 is revoked. Section 1008.41 is revised. Sections 1008.42, 1008.43, 1008.44, and 1008.45 are redesignated §§ 1008.43, 1008.44, 1008.45, and 1008.46, respectively, and a new § 1008.42 is added. The redesignated §§ 1008.44 and 1008.46 are revised. The text of §§ 1008.40 through 1008.46 which appear

under the centerhead "Classification of Milk", as revised and redesignated, now read as follows:

CLASSIFICATION OF MILK

§ 1008.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to § 1008.30 shall be classified each month pursuant to the provisions of §§ 1008.41 through 1008.46.

§ 1008.41 Classes of utilization.

Subject to the conditions set forth in §§ 1008.42 through 1008.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b)(4) and (5) of this section; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Contained in inventories of fluid milk products on hand at the end of the month;

(4) Disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form;

(5) Disposed of as skim milk and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1008.42(b)(1), but not to exceed two percent of the total receipts of skim milk or butterfat in the following:

(i) Producer milk (except that diverted pursuant to § 1008.6), milk received from a cooperative association for which it is a handler pursuant to § 1008.12(c) and milk caused to be delivered to the plant pursuant to § 1008.63;

(ii) Receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; and

(iii) Receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1008.42(b)(2).

§ 1008.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat contained in producer milk and other milk receipts specified in § 1008.41(b)(6); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1008.41(b)(6).

§ 1008.43 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this order shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 1008.44 Transfers.

Skim milk and butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant (or from a cooperative association which is a handler pursuant to § 1008.12(c)) to the pool plant of another handler (including that milk which a handler causes to be delivered from a producer's farm to the pool plant of another handler pursuant to § 1008.63), unless Class II utilization is mutually agreed upon and reported in writing to the market administrator by both transferor and transferee handlers on or before the 7th day after the end of the month within which such transfer occurred: *Provided,* That the classification of such transfer is subject to the following:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1008.46(a)(8) and the corresponding step in § 1008.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1008.46(a)(3) and the corresponding step in § 1008.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1008.46(a)(7) or (8) and the corresponding steps of § 1008.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located 250 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the Courthouse in Wheeling, West Virginia;

(d) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located less than 250 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the Courthouse in Wheeling, West Virginia, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1008.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular sources of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant not an other order plant shall be classified Class I milk unless:

(1) The transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1008.30;

(2) The handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only" and the shipment is so invoiced;

(3) The handler gives the market administrator sufficient notice to allow him to verify such shipment;

(4) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(5) Not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided,* That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified Class I milk; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1008.41.

§ 1008.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1008.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of each handler: *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1008.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1008.45, the market administrator shall determine the classification of producer milk at all pool plants for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1008.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1008.12(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1008.27(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1008.12(c) according to the classification assigned pursuant to § 1008.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

7. Section 1008.53 is revised to read as follows:

§ 1008.53 Location adjustments to handlers.

(a) For milk received from producers or from a cooperative association as a handler pursuant to § 1008.12(c) at a pool plant (or caused to be delivered pursuant to § 1008.63 at such pool plant) located 60 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the nearest of the City Halls in Wheeling, West Virginia; East Liverpool, Ohio; or Steubenville, Ohio, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1008.70, the price computed pursuant to § 1008.51(a) shall be reduced at the rate set forth in the following schedule:

Distance from the City Hall of Wheeling, West Virginia; East Liverpool or Steubenville, Ohio, whichever is nearest (miles):	*Rate per hundredweight (cents)*
60 but not more than 70	15.0
70 but not more than 80	16.5
80 but not more than 90	18.0
For each additional 10 miles or fraction thereof an additional	1.0

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which is in excess of the sum of receipts at such plant from producers, and cooperative associations pursuant to § 1008.12(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1008.54 [Revocation]

8. Section 1008.54 is revoked.

9. Section 1008.62 is revised to read as follows:

§ 1008.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1008.30(b) and 1008.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1008.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1008.70(e) and a credit in the amount specified in § 1008.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1008.30(b) and 1008.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1008.9, with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

10. Section 1008.70 is revised to read as follows:

§ 1008.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1008.12 (a), (b), and (c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1008.46(c), by the applicable class prices (adjusted pursuant to §§ 1008.52 and 1008.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1008.46(a)(10) and the corresponding step of § 1008.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1008.46(a)(5) and the corresponding step of § 1008.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1008.46(a)(3) and the corresponding step of § 1008.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1008.46(a)(7) and the corresponding step of § 1008.46(b).

11. Section 1008.71 is revised to read as follows:

§ 1008.71 Computation of the weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and for each of the months of August through March the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1008.70 for all handlers who filed the reports prescribed by § 1008.30 for the month and who made the payments pursuant to §§ 1008.80 and 1008.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1008.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1008.73 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk included in these computations; and

(2) The total hundredweight for which a value is computed pursuant to § 1008.70 (e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers during each of the months of August through March.

12. Section 1008.72 is revised to read as follows:

§ 1008.72 Computation of uniform prices for base milk and excess milk.

For each of the months April through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1008.71 (a) as follows:

(1) Multiply the hundredweight of excess milk not in excess of the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the hundredweight of excess milk not included in subparagraph (1) of this paragraph by the Class I milk price; and

(3) Add together the amounts resulting from the computation pursuant to subparagraphs (1) and (2) of this paragraph;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the total of the amount resulting from the computations pursuant to § 1008.71 (a) through (d), subtract the total value of excess milk determined by multiplying the uniform price per hundredweight for excess milk obtained in paragraph (b) of this section, plus the per hundredweight amount subtracted pursuant to paragraph (b) of this section, by the hundredweight of excess milk;

(d) Subtract from the amount computed pursuant to paragraph (c) of this section, an amount computed by multiplying the hundredweight of milk specified in § 1008.71(e)(2) by the weighted average price;

(e) Divide the amount computed pursuant to paragraph (d) of this section by the total hundredweight of base milk of producers included pursuant to these computations; and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the uniform price for base milk of 3.5 percent butterfat content received from producers.

13. Section 1008.74 is revised to read as follows:

§ 1008.74 Location differentials to producers and on nonpool milk.

(a) The uniform price to be paid for producer milk and the uniform price to be paid for base milk received at a pool plant or caused to be delivered to a pool plant pursuant to § 1008.63 shall be reduced according to the location of the pool plant at the rates set forth in § 1008.53; and

(b) For purposes of computations pursuant to §§ 1008.82 and 1008.83 the weighted average price shall be reduced at the rates set forth in § 1008.53 applicable at the location of the nonpool plant from which the milk was received.

14. Section 1008.82 is revised to read as follows:

§ 1008.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue.

(a) The net pool obligation computed pursuant to § 1008.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1008.71 and 1008.72 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1008.70(e).

15. Section 1008.83 is revised to read as follows:

§ 1008.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1008.82(b) exceeds the amount computed pursuant to § 1008.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

16. Section 1008.86 is revised to read as follows:

§ 1008.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, except producer milk received by a cooperative association as a handler pursuant to § 1008.12(c), (b) milk received from a cooperative association as a handler pursuant to § 1008.12(c), (c) other source milk allocated to Class I pursuant to § 1008.46 (a) (3) and (7) and the corresponding steps of § 1008.46(b), and (d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1009—MILK IN CLARKSBURG, WEST VIRGINIA, MARKETING AREA

1. Section 1009.6 is revised to read as follows:

§ 1009.6 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority having jurisdiction in the marketing area, and whose milk is received during the month at a pool plant: *Provided,* That if such milk is diverted from a pool plant by a handler to a nonpool plant (except an other order plant defined pursuant to § 1009.11) for his account any day during the months of March through July or on not more than 10 days (5 days in the case of every-other-day delivery) during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

2. Section 1009.11 is revised to read as follows:

§ 1009.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

3. Section 1009.12 is revised to read as follows:

§ 1009.12 Handler.

"Handler" means:

(a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1009.6;

(b) Any person in his capacity as the operator of one or more pool plants;

(c) A cooperative association with respect to Grade A milk it receives from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and delivered in such tank truck to a pool plant: *Provided,* That such milk shall be deemed to have been received directly from producers at the location of the pool plant to which it is delivered by the tank truck;

(d) Any person in his capacity as the operator of a partially regulated distributing plant; or

(e) A producer-handler, or any person who operates an other order plant described in § 1009.61 (a) and (b).

3a. In § 1009.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1009.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1009.46(a)(8) and the corresponding step of § 1009.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1009.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. Section 1009.30 is revised to read as follows:

§ 1009.30 Reports of receipts and utilization.

On of before the 7th day after the end of each month each handler, except a handler as defined pursuant to § 1009.12 (e), shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk;

(2) Fluid milk products received from other pool plants and from a cooperative association as a handler pursuant to § 1009.12(c);

(3) Other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) Milk caused to be moved from a producer's farm to a plant of another handler;

(6) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including separate statements as to the disposition of Class I milk outside the marketing area; and

(7) Such other information with respect to his receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler specified in § 1009.12 (d) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

5. Section 1009.31 is revised to read as follows:

§ 1009.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request;

(b) Each handler who receives milk from producers shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each of the months of May through August the aggregate quantity of base milk received for the preceding month;

(2) On or before the 20th day after the end of the month, his producer payroll for such month which shall show for each producer: (i) His name and address; (ii) the total pounds of milk received from such producer, including for the months of April through July, the pounds of base milk; (iii) the days for which milk was received from such producer if less than the entire month; (iv) the average butterfat content of such milk; and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;

(3) On or before the day prior to diverting producer milk pursuant to § 1009.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted; and

(c) Each handler who is the operator of a partially regulated distributing plant and who does not elect to make payments pursuant to § 1009.62(b), shall report for each such plant to the market administrator in the detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom Grade A milk was received, the following:

(1) His name and address;

(2) The total pounds of milk received from such dairy farmer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment to the dairy farmer, together with the price paid and the amount and nature of any deductions.

6. Section 1009.46 is revoked. Section 1009.41 is revised. Sections 1009.42, 1009.43, 1009.44, and 1009.45 are redesignated §§ 1009.43, 1009.44, 1009.45, and 1009.46, respectively, and a new § 1009.42 is added. The redesignated §§ 1009.44 and 1009.46 are revised. The text of §§ 1009.40 through 1009.46 which appear

under the centerhead "Classification of Milk", as revised and redesignated, now read as follows:

CLASSIFICATION OF MILK

§ 1009.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to § 1009.30 shall be classified each month pursuant to the provisions of §§ 1009.41 through 1009.46.

§ 1009.41 Classes of utilization.

Subject to the conditions set forth in §§ 1009.42 through 1009.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b) (4) and (5) of this section; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(3) Contained in inventories of fluid milk products on hand at the end of the month;

(4) Disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form;

(5) Disposed of as skim milk and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1009.42(b) (1), but not to exceed two percent of the total receipts of skim milk or butterfat in the following:

(i) Producer milk (except that diverted pursuant to § 1009.6), milk received from a cooperative association for which it is a handler pursuant to § 1009.12(c) and milk caused to be delivered to the plant pursuant to § 1009.63;

(ii) Receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; and

(iii) Receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1009.42(b) (2).

§ 1009.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat contained in producer milk and other milk receipts specified in § 1009.41(b) (6); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1009.41(b) (6).

§ 1009.43 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this order shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 1009.44 Transfers.

Skim milk and butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant (or from a cooperative association which is a handler pursuant to § 1009.12(c)) to the pool plant of another handler (including that milk which a handler causes to be delivered from a producer's farm to the pool plant of another handler pursuant to § 1009.63), unless Class II utilization is mutually agreed upon and reported in writing to the market administrator by both transferor and transferee handlers on or before the 7th day after the end of the month within which such transfer occurred: *Provided,* That the classification of such transfer is subject to the following:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1009.46(a) (8) and the corresponding step in § 1009.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1009.46(a) (3) and the corresponding step in § 1009.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1009.46(a) (7) or (8) and the corresponding steps in § 1009.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located 250 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the Courthouse in Clarksburg, West Virginia;

(d) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located less than 250 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the Courthouse in Clarkburg, West Virginia, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1009.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular sources of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant not an other order plant shall be classified Class I milk unless:

(1) The transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1009.30;

(2) The handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only" and the shipment is so invoiced;

(3) The handler gives the market administrator sufficient notice to allow him to verify such shipment;

(4) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(5) Not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided,* That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified Class I milk; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1009.41.

§ 1009.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1009.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1009.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1009.45, the market administrator shall determine the classification of producer milk at all pool plants for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1009.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1009.12(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1009.27(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1009.12(c) according to the classification assigned pursuant to § 1009.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

7. Section 1009.53 is revised to read as follows:

§ 1009.53 Location adjustments to handlers.

(a) For milk received from producers or from a cooperative association as a handler pursuant to § 1009.12(c) at a pool plant (or caused to be delivered pursuant to § 1009.63 at such pool plant) located 60 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Clarksburg, West Virginia, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1009.70, the price computed pursuant to § 1009.51(a) shall

be reduced at the rate set forth in the following schedule:

Distance from the City Hall of Clarksburg, West Virginia (miles):	*Rate per hundredweight (cents)*
60 but not more than 70	20
70 but not more than 80	22
80 but not more than 90	24
For each additional 10 miles or fraction thereof an additional	1

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which is in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1009.12(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

8. Section 1009.54 is revoked.

§ 1009.54 [Revocation]

9. Section 1009.62 is revised to read as follows:

§ 1009.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1009 30(b) and 1009.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1009.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1009.70(e) and a credit in the amount specified in § 1009.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1009.30(b) and 1009.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1009.9 with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

10. Section 1009.70 is revised to read as follows:

§ 1009.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1009.12 (a), (b) and (c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1009.46(c), by the applicable class prices (adjusted pursuant to §§ 1009.52 and 1009.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1009.46(a)(10) and the corresponding step of § 1009.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1009.46(a)(5) and the corresponding step of § 1009.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1009.46(a)(3) and the corresponding step of § 1009.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1009.46(a)(7) and the corresponding step of § 1009.46(b).

11. Section 1009.71 is revised to read as follows:

§ 1009.71 Computation of the weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and for each of the months of August through March the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1009.70 for all handlers who filed the reports prescribed by § 1009.30 for the month and who made the payments pursuant to §§ 1009.80 and 1009.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1009.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1009.73 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included in these computations; and

(2) The total hundredweight for which a value is computed pursuant to § 1009.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers during each of the months of August through March.

12. Section 1009.72 is revised to read as follows:

§ 1009.72 Computation of uniform prices for base milk and excess milk.

For each of the months April through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess

milk each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1009.71 (a) as follows:

(1) Multiply the hundredweight of excess milk not in excess of the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the hundredweight of excess milk not included in subparagraph (1) of this paragraph by the Class I milk price; and

(3) Add together the amounts resulting from the computation pursuant to subparagraphs (1) and (2) of this paragraph;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the total of the amount resulting from the computations pursuant to § 1009.71 (a) through (d), subtract the total value of excess milk determined by multiplying the uniform price per hundredweight for excess milk obtained in paragraph (b) of this section, plus the per hundredweight amount subtracted pursuant to paragraph (b) of this section, by the hundredweight of excess milk;

(d) Subtract from the amount computed pursuant to paragraph (c) of this section, an amount computed by multiplying the hundredweight of milk specified in § 1009.71(e)(2) by the weighted average price;

(e) Divide the amount computed pursuant to paragraph (d) of this section by the total hundredweight of base milk of producers included pursuant to these computations; and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the uniform price for base milk of 3.5 percent butterfat content received from producers.

13. Section 1009.74 is revised to read as follows:

§ 1009.74 Location differentials to producers and on nonpool milk.

(a) The uniform price to be paid for producer milk and the uniform price to be paid for base milk received at a pool plant or caused to be delivered to a pool plant pursuant to § 1009.63 shall be reduced according to the location of the pool plant at the rates set forth in § 1009.53; and

(b) For purposes of computations pursuant to §§ 1009.82 and 1009.83 the weighted average price shall be reduced at the rates set forth in § 1009.53 applicable at the location of the nonpool plant from which the milk was received.

14. Section 1009.82 is revised to read as follows:

§ 1009.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue.

(a) The net pool obligation computed pursuant to § 1009.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1009.71 and 1009.72 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1009.70(e).

15. Section 1009.83 is revised to read as follows:

§ 1009.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1009.82(b) exceeds the amount computed pursuant to § 1009.82 (a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

16. Section 1009.86 is revised to read as follows:

§ 1009.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, except producer milk received by a cooperative association as a handler pursuant to § 1009.12(c), (b) milk received from a cooperative association as a handler pursuant to § 1009.12(c), (c) other source milk allocated to Class I pursuant to § 1009.46(a)(3) and (7) the corresponding steps of § 1009.46(b), and (d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1011—MILK IN APPALACHIAN MARKETING AREA

1. Section 1011.10 is revised to read as follows:

§ 1011.10 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association of producers with respect to producer milk diverted by it from a pool plant to a nonpool plant in accordance with the provisions of § 1011.11;

(d) Any cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under control of such cooperative association, if the cooperative association, prior to delivery, furnished written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for the milk. The milk so delivered shall be considered to have been received by such cooperative association at the location of the pool plant to which it is delivered; and

(e) A producer-handler, or any person who operates an other order plant described pursuant to § 1011.61.

2. Section 1011.11 is revised to read as follows:

§ 1011.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of a duly constituted health authority for distribution in the marketing area, and whose milk is (a) received at a pool plant, or (b) received by a cooperative association in its capacity as a handler pursuant to § 1011.10(d), or (c) diverted from a pool plant to a nonpool plant other than an other order plant or a plant of a producer-handler: (1) Any day during the months of March through July, and (2) on not more than 15 days during any of the months of August through February: *Provided*, That the milk so diverted shall be deemed to have been received at the pool plant from which diverted if diverted for the account of the operator of such plant, or at the location of the pool plant from which diverted if diverted for the account of a cooperative association.

3. New §§ 1011.18 and 1011.19 are added under the centerhead "Definitions" to read as follows:

§ 1011.18 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products approved for fluid consumption by the appropriate health authority (hereafter referred to as Grade A milk) in consumer-type packages or dispenser units are distributed on routes in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

§ 1011.19 Fluid milk product.

"Fluid milk product" means all milk, skim milk (including concentrated and reconstituted skim milk), buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog.

4. In § 1011.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1011.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1011.46(a)(8), and the corresponding step of § 1011.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1011.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1011.30 is revised to read as follows:

§ 1011.30 Reports of receipts and utilization.

(a) On or before the 6th day after the end of each month, each handler shall report to the market administrator, for each of his pool plants and for each accounting period elected in such month, in the detail and on forms prescribed by the market administrator, as follows:

(1) The quantities of skim milk and butterfat contained in receipts of producer milk and the aggregate quantities of base milk and excess milk;

(2) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1011.10(d);

(3) The quantities of skim milk and butterfat contained in other source milk;

(4) The inventories of skim milk and butterfat in fluid milk products on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported by this part, including a separate statement of the disposition of Class I milk outside the marketing area; and

(6) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

(b) Each handler specified in § 1011.10 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

(c) On or before the 6th day after the end of each month, each cooperative association, with respect to milk for which it is a handler pursuant to § 1011.10 (c) or (d), shall report to the market administrator for such month, and for each accounting period elected in such month, in the detail and on forms prescribed by the market administrator, as follows:

(1) The quantities of skim milk and butterfat contained in receipts of producer milk; and

(2) The quantities of skim milk and butterfat contained in milk delivered to each pool plant and in the milk diverted to each nonpool plant.

(d) Each handler who submits reports on the basis of an accounting period of less than a month, as described in § 1011.35, shall submit a summary report of the same information for the entire month.

6. Section 1011.32 is revised to read as follows:

§ 1011.32 Payroll reports.

On or before the 20th day of each month, each handler shall submit to the market administrator the following reports:

(a) Each handler who receives milk from producers shall submit his producer payroll for deliveries of milk for the preceding month for each of his pool plants which shall show:

(1) The name and address of each producer;

(2) The total pounds and the average butterfat test of milk received from such producer, including, for the months of April through July, the total pounds of base and excess milk;

(3) The days on which milk was received from such producer if less than a full month;

(4) The rate and net amount of payment to each producer; and

(5) The amount and nature of any deductions or charges involved in such payments.

(b) Each handler operating a partially regulated distributing plant, and who does not elect to make payments pursuant to § 1011.62(b), shall submit his dairy farmer payroll for deliveries of milk to the partially regulated distributing plant for the preceding month which shall show:

(1) The name and address of each dairy farmer;

(2) The total pounds and the average butterfat test of milk received from such dairy farmer;

(3) The rate and net amount of payment to each dairy farmer; and

(4) The amount and nature of any deduction or charges involved in such payments.

7. In § 1011.33, paragraph (d) is revised to read as follows:

§ 1011.33 Records and facilities.

* * * * *

(d) Payments to producers or dairy farmers, including any deductions authorized by producers or dairy farmers, and disbursement of money so deducted.

8. Section 1011.41 is revised to read as follows:

§ 1011.41 Classes of utilization.

Subject to the conditions set forth in §§ 1011.42 through 1011.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products: *Provided,* That any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in fluid milk products which have been fortified with nonfat milk solids and which were excepted from Class I milk pursuant to paragraph (a)(1) of this section;

(3) Contained in homogenized and chocolate milk disposed of for animal feed;

(4) Contained in (skim milk only) products disposed of for animal feed, other than those in subparagraph (3) of this paragraph;

(5) Dumped (skim milk only) during the months of April, May, June or July: *Provided,* That the handler shall give the market administrator such advance notice of intention to dump as the market administrator may require;

(6) Contained in inventory of fluid milk products on hand at the end of the month;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1011.42(c); and

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1011.42(b)(2).

9. Section 1011.42 is revised to read as follows:

§ 1011.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat in the pool plant(s) of the handler;

(b) Prorate the resulting amounts between:

(1) Receipts of skim milk and butterfat contained in (i) producer milk (except milk diverted pursuant to § 1011.11(c)) and milk received from a cooperative association pursuant to § 1011.10(d), (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(2) Receipts of skim milk and butterfat in other source milk, exclusive of that specified in subparagraph (1) of this paragraph; and

(c) Multiply the pounds of shrinkage in skim milk and butterfat, respectively, prorated pursuant to paragraph (b)(1) of this section not to exceed 2.0 percent of the pounds of skim milk and butterfat, respectively, in receipts described therein, by the percentage of skim milk and butterfat, respectively, classified pursuant to § 1011.41 (a) (1) and (2), and (b) (1) through (5) (excluding that in milk diverted pursuant to § 1011.11(c) and shrinkage determined pursuant to paragraph (a) of this section) which is in Class II milk. The resulting amount shall be the pounds of skim milk and butterfat assigned to Class II pursuant to § 1011.41(b)(7).

10. Section 1011.44 is revised to read as follows:

§ 1011.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1011.10(d) to a pool plant of another handler unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 1011.30: *Provided,* That the classification of such transfer is subject to the following:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1011.46(a)(8) and the corresponding step in § 1011.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1011.46(a)(3) and the corresponding step in § 1011.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1011.46(a) (7) or (8) and the corresponding steps of § 1011.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in bulk as fluid milk or skim milk, or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 200 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Hall of Bluefield, West Virginia, or the city limits of Kingsport, Tennessee;

(d) As Class I milk, if transferred in bulk as fluid milk or skim milk, or diverted, to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Hall of Bluefield, West Virginia, or from the city limits of Kingsport, Tennessee, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1011.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and thereafter pro rata to receipts from pool plants and other order plants not regulated by such order; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim

milk and butterfat so transferred shall be classified as Class II milk not to exceed the equivalent amount of skim milk and butterfat, respectively, actually utilized as Class II milk in the nonpool plant;

(e) As Class I milk if transferred from a pool plant in bulk form as cream to a nonpool plant not an other order plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims classification in Class II in his report;

(3) The operator of the transferee plant maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat, respectively, was actually used as Class II milk in such transferee plant: *Provided,* That if the same Class II utilization of skim milk and butterfat in such transferee plant is claimed with respect to transfers of cream by other pool plants or other order plants, the skim milk and butterfat assigned to Class II pursuant to this paragraph shall not exceed the pro rata share of the skim milk and butterfat, respectively, received from all other pool plants or other order plants; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1011.41.

11. Section 1011.46 is revised to read as follows:

§ 1011.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1011.45, the market administrator shall determine the classification of each handler's producer milk received at his pool plants as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1011.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers or from a cooperative association in its capacity as a handler pursuant to § 1011.10(d), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1011.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers or from a cooperative association in its capacity as a handler pursuant to § 1011.10(d) according to the classification assigned pursuant to § 1011.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1011.53 is revised to read as follows:

§ 1011.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the nearest of the City Halls in Bluefield, West Virginia; Welch, West Virginia; Harlan, Kentucky; the County Courthouse in Princeton, West Virginia; and the city limits of Kingsport, Tennessee, and assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1011.70, the price computed pursuant to § 1011.51(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant after subtracting from Class I 95 percent of

the sum of (1) receipts at such plant from producers and cooperative associations pursuant to § 1011.10(d) and (2) receipts assigned as Class I from other order plants and unregulated supply plants; such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1011.62 is revoked. A new § 1011.62 is added to read as follows:

§ 1011.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1011.30(b) and 1011.32(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1011.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1011.70(e) and a credit in the amount specified in § 1011.94(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1011.30(b) and 1011.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1011.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

14. Section 1011.70 is revised to read as follows:

§ 1011.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler for milk received at his pool plants and of any cooperative association with respect to milk for which it is a handler pursuant to § 1011.10 (c) or (d) each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1011.46(c), by the applicable class prices (adjusted pursuant to §§ 1011.52 and 1011.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1011.46(a)(10) and the corresponding step of § 1011.46(b), by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1011.46(a)(5) and the corresponding step of § 1011.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1011.46(a)(3) and the corresponding step of § 1011.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1011.46(a)(7) and the corresponding step of § 1011.46(b).

15. Section 1011.71 is revised to read as follows:

§ 1011.71 Computation of weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and for each of the months of August through March the uniform price per hundredweight of milk received as follows:

(a) Combine into one total the values computed pursuant to § 1011.70 for all handlers who filed the reports prescribed by § 1011.30 for the month and who are not in default of payments pursuant to §§ 1011.90 and 1011.94 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1011.92;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1011.91 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included under paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1011.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average" price, and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of August through March.

16. Section 1011.72 is revised to read as follows:

§ 1011.72 Computation of uniform prices for base milk and excess milk.

For each of the months April through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk each of 3.5 percent butterfat content received from producers as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1011.71 (a) as follows:

(1) Multiply the hundredweight of excess milk not in excess of the total quantity of producer milk received by such handlers assigned to Class II milk by the price for Class II milk of 3.5 percent butterfat content;

(2) Multiply the hundredweight of excess milk not included in subparagraph (1) of this paragraph by the price for Class I milk of 3.5 percent butterfat content;

(3) Add together the amounts resulting from the computation pursuant to

subparagraphs (1) and (2) of this paragraph; and

(4) Add any amount indicated pursuant to the proviso of paragraph (e) of this section;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content f.o.b. basing points;

(c) From the total of the amounts computed pursuant to paragraphs (a) through (d) in § 1011.71 subtract the total value of excess milk determined by multiplying the uniform price for excess milk obtained in paragraph (b) of this section by the hundredweight of excess milk;

(d) Subtract from the amount computed pursuant to paragraph (c) of this section, an amount computed by multiplying the hundredweight of milk specified in § 1011.71(e)(2) by the weighted average price;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk included in these computations: *Provided,* That if the resulting value is greater than an amount computed by multiplying the total hundredweight of such milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (a) of this section but only to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volumes of milk used in computing the base and excess prices; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section, the resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content, f.o.b. basing points.

17. Section 1011.92 is revised to read as follows:

§ 1011.92 Location differentials to producers and on nonpool milk.

(a) The uniform price to be paid for producer milk and the uniform price to be paid for base milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1011.53; and

(b) For purposes of computations pursuant to §§ 1011.94 and 1011.95 the weighted average price shall be reduced at the rates set forth in § 1011.53 applicable at the location of the nonpool plant from which the milk was received.

18. Section 1011.93 is revised to read as follows:

§ 1011.93 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1011.62, 1011.94, and 1011.96 and out of which he shall make all payments pursuant to §§ 1011.95 and 1011.96: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

19. Section 1011.94 is revised to read as follows:

§ 1011.94 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1011.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1011.71 and 1011.72 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1011.70(e).

20. Section 1011.95 is revised to read as follows:

§ 1011.95 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1011.94(b) exceeds the amount computed pursuant to § 1011.94(a). The market administrator shall offset any payment due any handler against payments due from such handler.

21. Section 1011.98 is revised to read as follows:

§ 1011.98 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk and milk received from a cooperative association in its capacity as a handler pursuant to § 1011.10 (d); (b) other source milk allocated to Class I pursuant to § 1011.46(a)(3) and (7) and the corresponding step of § 1011.46(b); and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants: *Provided,* That if such handler elects two accounting periods within the month, the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period.

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.7 is revised to read as follows:

§ 1013.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk (as described in § 1013.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the United States Government located in the marketing area for fluid consumption), which milk is received at pool plant(s) on eight or more days during the month, or a person who was a producer during the preceding month from whom milk was received at pool plant(s) on eight or more days: *Provided,* That after December 31, 1960, the definition of "producer" shall not mean any person who during the month produces milk on, in, or by the use of the same milking barns or premises from which milk is delivered to a nonpool plant except milk diverted to such nonpool plant by a handler pursuant to § 1013.13.

2. Section 1013.12 is revised to read as follows:

§ 1013.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) are moved to a pool plant during the month.

3. In § 1013.22, paragraph (j)(1) and (2) is revised and new paragraphs (l) (m) and (n) are added to read as follows:

§ 1013.22 Duties.

* * * * *

(j) * * *

(1) The 5th day of each month, the Class I milk price computed pursuant to § 1013.50(a) and butterfat differential computed pursuant to § 1013.72, both for the current month, and the Class II milk price, Class III milk price and Class IV milk price computed pursuant to § 1013.50 (d), (e), and (f), respectively, and butterfat differential computed pursuant to § 1013.72, all for the preceding months; and

(2) The 11th day of each month, the uniform price computed pursuant to § 1013.71 and the producer butterfat differential all for the preceding months; and

* * * * *

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1013.46(a)(8) and the corresponding step of § 1013.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of milk products designated in § 1013.41(a) from an other order plant, the classification to which such receipts are allocated pursuant to § 1013.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped skim milk and butterfat in the form of milk products designated as Class I milk pursuant to § 1013.41(a) to an other order plant, the classification to which such skim milk and butterfat was allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. In § 1013.31, a new paragraph (c) is added to read as follows:

§ 1013.31 Other reports.

* * * * *

(c) Each handler making payments pursuant to § 1013.62(a) shall report the information required pursuant to paragraph (b) of this section. In such reports receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk, and payments to dairy farmers delivering such milk shall be reported in lieu of payments to producers.

4a. In § 1013.40, the designation "1013.45" is changed to "1013.46".

5. In § 1013.41, the introductory paragraph immediately preceding paragraph (a) and paragraph (c) (3) and (4) are revised to read as follows:

§ 1013.41 Classes of utilization.

Subject to the conditions set forth in §§ 1013.42 through 1013.46, the classes of utilization shall be as follows:

* * * * *

(c) * * *

(3) In shrinkage up to, but not in excess of, 2 percent of the total receipts of skim milk and butterfat, respectively, in (i) producer milk, (ii) receipts of milk and skim milk in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler, and (iii) receipts of milk and skim milk in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1013.42(b)(2).

6. Sections 1013.42, 1013.43, 1013.44, and 1013.45 are redesignated §§ 1013.43, 1013.44, 1013.45, and 1013.46, respectively, and a new § 1013.42 is added to read as follows:

§ 1013.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1013.41(c)(3); and

(2) Remaining receipts of other source milk received in the form of fluid milk or skim milk.

7. Section 1013.44 is revised to read as follows:

§ 1013.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of milk products designated as Class I milk pursuant to § 1013.41(a), from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1013.46(a)(8) and the corresponding step of § 1013.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1013.46(a)(3), and the corresponding step of § 1013.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1013.46(a)(7) or (8) and the corresponding steps of § 1013.46(b) the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted in bulk form as milk or skim milk to a nonpool plant that is neither

an other order plant nor a producer-handler plant, located more than 500 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in Boca Raton, Florida;

(c) As Class I milk, if transferred or diverted in bulk form as milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant located not more than 500 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in Boca Raton, Florida, unless the requirements of surparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1013.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged milk products designated as Class I milk pursuant to § 1013.41(a) from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the milk or skim milk so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class III milk to the extent available and the remainder as Class II milk;

(d) As Class I milk, if transferred in bulk form as cream to a nonpool plant that is neither an other order plant nor a producer-handler plant unless:

(1) The transferring handler claims classification as Class II milk;

(2) The handler gives the market administrator sufficient notice to allow him to verify the shipment;

(3) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the quantity transferred in excess of such actual use shall be classified as Class I milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in the form of skim milk or butterfat in milk products designated as Class I milk pursuant to § 1013.41(a) in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in the form of skim milk and butterfat in milk products designated as Class I milk pursuant to § 1013.41(a) in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of milk products designated as Class I milk pursuant to § 1013.41(a) shall be classified as Class I, and milk allocated to other classes shall be classified in a comparable classification as Class II or Class III milk; and

(6) If the form in which any milk product designated as Class I milk pursuant to § 1013.41(a) is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1013.41.

8. Section 1013.46 is revised to read as follows:

§ 1013.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1013.45, the market administrator shall determine the classification of producer milk for each handler for each month or other accounting period described in paragraph (d) of this section as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1013.41(c)(3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in the form of milk products designated as Class I pursuant to § 1013.41(a) received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk as specified in § 1013.14(b);

(ii) Receipts of milk products designated pursuant to § 1013.41(a) for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of milk products designated pursuant to § 1013.41(a) from a producer-handler, as defined under this or any other Federal order;

(iv) Other source milk received from dairy farmers;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class III and/or Class II (beginning with Class III unless otherwise specified) but not in excess of such quantity or quantities:

(i) Receipts of milk and skim milk from an unregulated supply plant:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of milk products designated pursuant to § 1013.41(a) in bulk from an other order plant in excess of similar transfers to such plant, if Class III or Class II utilization, respectively, was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim
pounds of skim milk remaining in each

(5) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of milk products in the form of products designated as Class I milk pursuant to § 1013.41(a) on hand at the beginning of the month or other accounting period: *Provided,* That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products designated in § 1013.41(a) from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of milk products designated in § 1013.41(a) in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class III, and thereafter from Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1013.22(1) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in the form of milk products designated as Class I milk pursuant to § 1013.41(a) from pool plants of other handlers according to the classification assigned pursuant to § 1013.44(a);

(10) If the pounds of skim milk remaining in the various classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class IV. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section;

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class; and

(d) A handler may account for receipts of milk, utilization of milk and classification of milk, at his plant, for periods within a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of every accounting period.

9. Section 1013.51 is revised to read as follows:

§ 1013.51 Location adjustments to handlers.

(a) For milk received from producers at a pool plant 60 miles or more by shortest hard-surfaced highway distance, as determined by the market administrator, from the main U.S. Post Office in Boca Raton, Florida, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a Class I location adjustment is applicable, the Class I price computed pursuant to § 1013.50(a) shall be reduced by 13 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I pursuant to § 1013.46(a) (7) or (8) and the corresponding steps of § 1013.46(b), to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§§ 1013.52; 1013.53 [Revocation; Redesignation]

10. Section 1013.52 is revoked and § 1013.53 is redesignated § 1013.52.

11. Section 1013.62 is revised to read as follows:

§ 1013.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1013.30 and 1013.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1013.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1013.70(e) and a credit in the amount specified in § 1013.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1013.30 and 1013.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1013.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price).

12. Section 1013.70 is revised to read as follows:

§ 1013.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1013.46(c), by the applicable class prices (adjusted pursuant to § 1013.51);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1013.46(a)(10) and the corresponding

step of § 1013.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding accounting period and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(5) and the corresponding step of § 1013.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1013.46(a)(3) and the corresponding step of § 1013.46(b); and

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(7) and the corresponding step of § 1013.46(b).

13. Section 1013.71 is revoked.

14. Section 1013.72 is redesignated § 1013.71 and is revised to read as follows:

§ 1013.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk as follows:

(a) Combine into one total the values computed pursuant to § 1013.70 for all handlers who filed the reports prescribed by § 1013.30 for the month and who made the payments pursuant to §§ 1013.80 and 1013.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1013.73;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1013.70(e); and

(e) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1013.72 [Redesignation]

15. Section 1013.73 is redesignated § 1013.72.

16. Section 1013.74 is redesignated § 1013.73 and is revised to read as follows:

§ 1013.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1013.51; and

(b) For purposes of computations pursuant to §§ 1013.82 and 1013.83 the uniform price shall be adjusted at the rates set forth in § 1013.51 applicable at the location of the nonpool plant from which the milk was received.

§ 1013.74 [Redesignation; amendment]

17. Section 1013.75 is redesignated § 1013.74.

§ 1013.80 [Amendment]

18. In §§ 1013.74(b) and 1013.80(a)(3), the reference to "§ 1013.72" is deleted and "§ 1013.71" is substituted therefor.

19. Section 1013.82 is revised to read as follows:

§ 1013.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or portion thereof that such payment is overdue: *And provided further,* That the requirement as to date of payment pursuant to this section shall be considered to have been met if the payment is made by mail postmarked not later than the required payment date:

(a) The net pool obligation computed pursuant to § 1013.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1013.80(a)(3); and

(2) The value at the uniform price pursuant to § 1013.71 at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1013.70(e).

20. Section 1013.83 is revised to read as follows:

§ 1013.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1013.82(b) exceeds the amount computed pursuant to § 1013.82(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

21. Section 1013.86 is revised to read as follows:

§ 1013.86 Expense of administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (1) producer milk (including such handler's own production), (2) other source milk allocated to Class I pursuant to § 1013.46(a)(3) and (7) and the corresponding steps of § 1013.46(b), and (3) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(b) With respect to payments pursuant to paragraph (a) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

PART 1016—MILK IN UPPER CHESAPEAKE BAY MARKETING AREA

1. In § 1016.2, paragraphs (e) and (g) are revised to read as follows:

§ 1016.2 Definitions of persons.

* * * * *

(e) "Producer" means any dairy farmer (except a dairy farmer for other markets or a producer-handler as defined in any order, including this part, issued pursuant to the Act) with respect to milk of his production which is received at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4), or which is diverted to a nonpool plant (except a plant of a producer-handler or a plant where such milk would be priced as producer milk subject to the provisions of another order issued pursuant to the Act) during any month(s) of March through September, or which is diverted during any month(s) of October through February to such a nonpool plant in accordance with the provisions of subparagraph (1), (2), or (3) of this paragraph: *Provided,* That the milk so diverted shall be deemed to have been received at the pool plant from which diverted: *And provided further,* That a handler shall notify a cooperative association prior to diverting milk of such cooperative's members during the month: *And provided also,* That if diversions by a cooperative association or other handler exceed the limits described in subparagraph (1) or (2), respectively, of this paragraph, all diversions by such handler shall be subject to the limit of the number of days of diversion pursuant to subparagraph (3) of this paragraph:

(1) Diverted as the milk of a member of a cooperative association for the account of such association, if member milk so diverted does not exceed 15 percent of the total of such diverted milk and other milk of members of such cooperative association received at pool plants during the month;

(2) Diverted as the milk of a dairy farmer not a member of a cooperative association for the account of a handler not a cooperative association in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 15 percent of the total of such diverted milk and other nonmember milk which is received at the pool plant during the month; or

(3) Diverted not more than 10 days (5 days in the case of every-other-day delivery) during the month, except that the definition of producer pursuant to this subparagraph shall not include any dairy farmer with respect to the milk of such farmer which is, during any month of the October through February period, delivered to nonpool plants on days in excess of the number of days specified in this subparagraph.

* * * * *

(g) "Handler" means: (1) Any person in his capacity as the operator of a pool plant; (2) a producer-handler or any person in his capacity as an operator of a partially regulated distributing plant or an other order plant described in § 1016.61 (a) and (b); (3) a cooperative association with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of paragraph (e) of this section from a pool plant for the account of such cooperative association; and (4) a cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant of another handler in a tank truck owned, operated by, or under contract to such cooperative association for the account of the cooperative association if the cooperative association has notified in writing the market administrator and the handler to whom the milk is delivered that it elects to be the handler for such milk. Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered.

2. In § 1016.3, paragraph (c) is revised to read as follows:

§ 1016.3 Definitions of plants.

* * * * *

(c) "Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(1) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(2) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products in consumer-type packages or dispenser units approved for fluid consumption by a duly constituted health authority are distributed on routes in the marketing area during the month; and

(4) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products approved by a duly constituted health authority for fluid consumption are shipped to a pool plant.

2a. In § 1016.22, additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1016.22 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1016.46(a)(8) and the corresponding step of § 1016.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1016.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

3. In § 1016.30, paragraph (c) is revoked and paragraph (b) is revised to read as follows:

§ 1016.30 Reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1016.2 (g)(2) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that milk approved for fluid consumption by the appropriate health authority received from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

4. Section 1016.31 is revised to read as follows:

§ 1016.31 Other reports.

(a) Each pool handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer (and for each pool plant in the case of those pool handlers operating pool plants): (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the average butterfat content of such milk, and (iv) the net amount of the handler's payment, together with the price paid and the amount and nature of any deduction; and

(2) On or before the first day other source milk is received at his pool plant(s) in the form of any fluid milk product, his intention to receive such product and on and before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to receipts and utilization of butterfat and skim milk as the market administrator shall prescribe.

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to a pool handler, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant location involved.

(c) Each pool handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to

§ 1016.80(b) shall on or before the 11th day after the end of each month report to such cooperative association concerning each producer-member of such cooperative association from whom he received milk during the month as follows:

(1) The name, address and code number, if any;

(2) The total deliveries and the number of days on which delivery was made;

(3) The average butterfat test of the milk delivered; and

(4) The nature and amount of any deductions to be made in payments due such producer.

(d) Each pool handler dumping milk or milk products pursuant to § 1016.41 (b)(3) shall give the market administrator during normal duty hours not less than three hours advance notice of intention to make such disposition and of the quantities of skim milk and butterfat involved.

(e) Each pool handler, in the case of any bulk tank load of milk of which partial loss occurs through accident in transit from farm(s) to plant of first receipt, shall report, within 24 hours following the accident, for each producer: (1) The quantity lost, and (2) the quantity of producer milk received computed pursuant to the terms set forth in § 1016.4 (b).

(f) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(g) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1016.62(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom he receives milk.

5. In § 1016.41, paragraph (b) is revised to read as follows:

§ 1016.41 Classes of utilization.

* * * * *

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those designated as Class I milk pursuant to paragraph (a)(1) and (3) of this section;

(2) Disposed of for livestock feed;

(3) In milk and milk products dumped, if the conditions of § 1016.31(d) are met by the handler;

(4) Contained in inventory of fluid milk products on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 1016.42(b)(1) not to exceed the following:

(i) 2.0 percent of producer milk received at a pool plant by the handler operating the plant; plus

(ii) 1.5 percent of milk received at a pool plant by the handler operating the plant from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4), except that if the handler files with the market administrator notice that he is purchasing such milk on the basis of weights determined at the farm from farm tank measurements, and at butterfat tests based on samples taken at the farm, the applicable percentage shall be 2.0 percent; plus

(iii) 1.5 percent of milk received at a pool plant in bulk tank lots from other pool plants; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the handler (and by the operator of such other order plant if such receipt is fully subject to the classification and pricing provisions of such other order); plus

(v) 1.5 percent of receipts from dairy farmers who are not producers and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) 1.5 percent of milk disposed of in bulk tank lots from a pool plant to other plants; and plus

(vii) 0.5 percent of producer milk received by a cooperative association for which it is a handler pursuant to § 1016.-2(g)(4), unless the exception provided in subdivision (ii) of this subparagraph applies;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1016.42(b)(2);

(7) Disposed of in bulk fluid form to manufacturing establishments which do not dispose of fluid milk products from the premises and which use such skim milk and butterfat in the manufacture of nondairy commercial food products including soup, candy and bakery products; and

(8) The weight of skim milk in fortified fluid milk products which is excepted from Class I milk pursuant to paragraph (a)(1) of this section.

6. Section 1016.42 is revised to read as follows:

§ 1016.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant; and

(b) Allocate the resulting amounts pro rata to skim milk and butterfat, respectively, in:

(1) Producer milk and other receipts of milk specified in § 1016.41(b)(5), and

(2) Other source milk exclusive of that specified in § 1016.41(b)(5).

7. Section 1016.44 is revised to read as follows:

§ 1016.44 Transfers.

Skim milk and butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant or a cooperative association as a handler pursuant to § 1016.2(g)(4) to a pool plant, unless Class II utilization is indicated by the transferee and transferor handlers (or by the handler if such transfer is between two pool plants of the same handler) in their reports pursuant to § 1016.30(a) for the month, subject to the conditions of subparagraphs (1), (2) and (3) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1016.46(a)(8) and the corresponding step of § 1016.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1016.46(a)(3), and the corresponding step of § 1016.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the greatest possible Class I utilization to the producer milk at both plants; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1016.46(a)(7) and (8) and the corresponding steps of § 1016.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located 300 miles or more from the City Hall in Baltimore, Maryland;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located less than 300 miles by the shortest hard-surfaced highway distance as determined by the market administrator from the City Hall in Baltimore, Maryland, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1016.30 for the month within which such transaction occurred;

(2) The operator of such nonpool transferee plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification;

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and thereafter pro rata to receipts from pool plants and other order plants not regulated by such order;

(iii) The remaining skim milk and butterfat so transferred or diverted shall be assigned to Class II utilization in the nonpool plant to the extent claimed by the transferor handler if such Class II utilization is not assigned to other Federal order milk under provisions of an other order: *Provided*, That if upon inspection of the records at such plant it is found that an equivalent utilization of skim milk and butterfat was not available the remaining pounds shall be classified as Class I;

(e) As Class I milk if transferred in packaged form to a nonpool plant that is not an other order plant; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1016.41.

8. Section 1016.46 is revised to read as follows:

§ 1016.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1016.45, the market administrator shall determine the classification of producer milk received at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1016.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which approval by a duly constituted health authority for fluid disposition is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products for which the handler requests Class II utilization which were received from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating the plant, and from dairy farmers who are not producers, but not in any case to exceed the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of other source milk in the form of fluid milk products from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, to the extent that the total of such receipts are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, receipts from pool plants of other handlers, from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4) and in receipts in bulk from other order plants classified and priced pursuant to the applicable order; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in other source milk in the form of fluid milk products from unregulated supply plants, from other order plant(s) if not classified and priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph;

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant if classified and priced pursuant to the other order and if Class II utilization was requested by the operator of such plant and the transferee handler, but not in excess of the pounds of skim milk remaining in Class II milk;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants, from other order plant(s) if not classified or priced pursuant to the order regulating such plant, and from dairy farmers who are not producers, that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from other order plants (except receipts from other order plant(s) not classified and priced pursuant to the order regulating such plant), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subparagraphs (ii) and (iii) of this paragraph, such subtraction shall be pro rata

to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1016.22(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4) according to the classification assigned pursuant to § 1016.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1016.52 is revised to read as follows:

§ 1016.52 Location differentials to handlers.

(a) For that milk received from producers or from a cooperative association as a handler pursuant to § 1016.2(g)(4) at a pool plant located 75 miles or more from the nearer of the City Hall in Baltimore or the Courthouse in Salisbury, Maryland, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, and for other source milk assigned Class I location adjustment credit pursuant to § 1016.70, the price specified in § 1016.50(a) shall be reduced 12 cents per hundredweight plus an additional 1.5 cents for each additional 10 miles or fraction thereof in excess of 75 miles:

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which is in excess of the receipts at such plant as specified in subparagraphs (1), (2), and (3) of this paragraph, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply:

(1) Receipts from producers, and cooperative associations pursuant to § 1016.2(g)(4);

(2) Receipts assigned as Class I from other order plants; and

(3) Receipts assigned as Class I from unregulated supply plants and from dairy farmers who are not producers.

10. In § 1016.62, the section heading and the provisions therein are revised to read as follows:

§ 1016.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1016.30(b) and 1016.31(g) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1016.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1016.70(e) and a credit in the amount specified in § 1016.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1016.30(b) and 1016.31(g) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1016.3(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk approved by a duly constituted health authority for fluid disposition received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

11. Section 1016.70 is revised to read as follows:

§ 1016.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler who receives milk from producers during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1016.46(c), by the applicable class prices (adjusted pursuant to §§ 1016.51 and 1016.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1016.46(a)(10) and the corresponding step of § 1016.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1016.46(a)(5) and the corresponding step of § 1016.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1016.46(a)(3) and the corresponding step of § 1016.46(b);

(e) Add an amount equal to the values of skim milk and butterfat determined pursuant to subparagraphs (1) and (2) as follows:

(1) The value at the Class I price of skim milk and butterfat received from dairy farmers who are not producers assigned to Class I pursuant to § 1016.46(a)(7) and the corresponding step of § 1016.46(b), adjusted pursuant to § 1016.52;

(2) The value at the Class I price of skim milk and butterfat assigned to Class I pursuant to § 1016.46(a)(7), and the corresponding step of § 1016.46(b), excluding milk from dairy farmers who are not producers, adjusted for the location of the nearest plants from which such types of receipts were received; and

(f) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

12. Section 1016.71 is revised to read as follows:

§ 1016.71 Computation of uniform and weighted average prices.

For each month the market administrator shall compute the weighted average price and for each of the months of July through February the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1016.70 for all handlers who filed the reports prescribed by § 1016.30 for the month and were not in default of payments pursuant to § 1016.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1016.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1016.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included under paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1016.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of July through February.

13. Section 1016.72 is revised to read as follows:

§ 1016.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through June the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1016.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(c) From the amount resulting from the computations of § 1016.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1016.71(e)(2) by the weighted average price;

(d) Subtract the total value of excess milk, determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk.

§ 1016.80 [Amendment]

14. In § 1016.80(a) the reference "§ 1016.72(c) through (e)" is changed to read "§ 1016.72(c) through (f)".

15. Section 1016.82 is revised to read as follows:

§ 1016.82 Location differentials to producers and on nonpool milk.

(a) In making payments to producers or to a cooperative association pursuant to § 1016.80(a) or (b) at the uniform price computed pursuant to § 1016.71 for milk received from producers during any month(s) of July through February and at the uniform price for base milk computed pursuant to § 1016.72 for base milk received from producers during any month(s) of March through June, a handler, with respect to all such milk received at a pool plant located 75 miles by the shortest highway distance from the nearer of the City Hall, Baltimore, Maryland, or the Courthouse, Salisbury, Maryland (as determined by the market administrator), and a cooperative association, with respect to all such milk received by it in its capacity as a handler pursuant to § 1016.2(g)(3) and (4), at the location of such plant, shall deduct 12 cents per hundredweight plus an additional 1.5 cents for each additional 10-mile distance, or fraction thereof, which such plant is located from such point.

(b) For purposes of computations pursuant to §§ 1016.84 and 1016.85 the weighted average price shall be reduced at the rates set forth in paragraph (a) of this section applicable at the location of the plant(s) at which the milk was received with respect to other source milk for which a value is computed pursuant to § 1016.70(e)(1) and at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1016.70(e)(2).

16. Section 1016.84 is revised to read as follows:

§ 1016.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1016.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1016.71 and 1016.72 adjusted by producer butterfat and location differentials; and

(2) The value at the weighted average price adjusted by the producer butterfat differential pursuant to § 1016.81 and the location differential on nonpool milk pursuant to § 1016.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1016.70(e).

17. Section 1016.85 is revised to read as follows:

§ 1016.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any by which the amount computed pursuant to § 1016.84(b) exceeds the amount computed pursuant to § 1016.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

18. Section 1016.88 is revised to read as follows:

§ 1016.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each

handler, excluding a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4), shall pay to the market administrator on or before the 18th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production) and milk received from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4), (b) other source milk allocated to Class I pursuant to § 1016.46(a) (3) and (7), and the corresponding steps of § 1016.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1016.89 [Amendment]

19. In the text of paragraph (a) in § 1016.89, the reference to "(a)" contained therein is changed to "(b)".

PART 1033—MILK IN GREATER CINCINNATI MARKETING AREA

1. Section 1033.8 is revised to read as follows:

§ 1033.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

2. In § 1033.10, the introductory text is revised to read as follows:

§ 1033.10 Producer.

"Producer" means a dairy farmer, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk on a farm which is approved by a duly constituted health authority for the production of milk for fluid disposition and which milk is:

3. Section 1033.11 is revised to read as follows:

§ 1033.11 Handler.

"Handler" means:

(a) Any person who operates (1) a pool plant; or (2) a partially regulated distributing plant;

(b) Any cooperative association with respect to the milk of any producer which is diverted by the cooperative association during the month; or

(c) A producer-handler, or any person who operates an other order plant described in § 1033.92.

4. In § 1033.22, additional paragraphs (k), (l), and (m) are added to read as follows:

§ 1033.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1033.46(a)(8) and the corresponding step of § 1033.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1033.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1033.31 is revised to read as follows:

§ 1033.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler specified in § 1033.11(a)(2) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1033.30 (a) through (c), except that receipts in Grade A milk shall be reported in lieu of those in producer

milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(c) On or before the 10th day after the end of the month each handler who operates a partially regulated distributing plant, except one who elects to make payments pursuant to § 1033.61(b), shall report to the market administrator on forms approved by the market administrator his dairy farmer payroll which shall show for each dairy farmer, the total pounds of milk received from him and the average butterfat content thereof and the net amount of the payment made to such dairy farmer together with the price, deductions and charges involved.

6. Section 1033.41 is revised to read as follows:

§ 1033.41 Classes of utilization.

Subject to the conditions set forth in §§ 1033.43 and 1033.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, other than those classified pursuant to paragraph (c)(2), (3) and (4) of this section, except that fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) Not accounted for as Class II milk or Class III milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce ice cream, frozen desserts, ice cream and frozen dessert mixes (excluding malted milk or milk shake mixtures containing less than 15 percent total milk solids), milk or skim milk and cream mixtures disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, cottage cheese, and cultured mixtures of skim milk and butterfat to which cheese or any food substance other than a milk product has been added in an amount equal to at least three percent of the finished product and which contains butterfat equal to not more than 15 percent of the finished product; and

(2) Inventories of fluid milk products; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter, frozen cream, spray and roller process nonfat dry milk solids, all cheese (other than cottage cheese), evaporated and condensed milk (or skim milk) either in bulk or hermetically sealed cans;

(2) Specifically accounted for as dumped, spilled or disposed of for animal feed;

(3) Disposed of in bulk as milk, skim milk, or cream to any commercial food processing establishment where food products are prepared only for consumption off the premises;

(4) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b)(1), but not in excess of two percent of such milk; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b)(2).

7. Section 1033.42 is revised to read as follows:

§ 1033.42 Shrinkage.

The market administrator shall allocate shrinkage at the handler's pool plant(s) as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively; and

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat, respectively, in producer milk (including producer milk physically received as diverted milk from another pool plant and excluding producer milk diverted to another pool plant), receipts of fluid milk products in bulk form from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler, and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and (2) skim milk and butterfat in other source milk received in bulk fluid form, exclusive of that specified in paragraph (b)(1) of this section.

8. Section 1033.43 is revised to read as follows:

§ 1033.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1033.46(a)(8) and the corresponding step of § 1033.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1033.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1033.46(a)(7) or (8) and the corresponding steps of § 1033.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1033.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants;

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II or Class III milk, whichever is claimed: *Provided,* That an equivalent amount of skim milk and butterfat, respectively, was used at such nonpool plant in the classification(s) claimed. Any amounts in excess of the actual Class III use shall be assigned to Class II.

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III to the extent of the Class II or Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (d), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II or Class III, whichever is more nearly similar to the class to which allocated in the other order; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1033.41.

9. Section 1033.46 is revised to read as follows:

§ 1033.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1033.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1033.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with the lowest priced use available, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III, according to the classification claimed by the handler; except that skim milk allocated pursuant to subparagraph (4)(ii) of this paragraph shall be subtracted as specified in that subparagraph:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II or Class III utilization, but not in excess of the pounds of skim milk remaining in Class II or Class III;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows (Subtract such excess first from the remaining Class III and then from the remaining Class II):

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II and Class III which is in excess of the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II or Class III shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk and Class III milk, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the remaining pounds of skim milk, in series from Class II milk and then Class I milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in an other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of all Class II milk and Class III milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1033.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II and Class III at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II and Class III at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in an other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds

of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1033.43(a); and

(10) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with the lowest priced use available. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1033.53 is revised to read as follows:

§ 1033.53 Location differentials to handlers.

(a) For that skim milk and butterfat in producer milk received at a pool plant located 30 or more miles by the shortest highway distance from the City Hall in Cincinnati, Ohio, as determined by the market administrator, and which is (1) moved in the form of a fluid milk product or as condensed skim milk or frozen cream to a pool plant located less than 30 miles from the City Hall in Cincinnati, Ohio, or (2) otherwise disposed of as Class I or Class II milk at such plant or assigned Class I or Class II location adjustment credit pursuant to this section and other source milk for which a location adjustment credit is applicable, the handlers obligation pursuant to § 1033.60, subject to paragraph (b), shall be reduced at the rate set forth in the following schedule:

Distance from City Hall (miles):	*Rate per hundredweight (cents)*
30 but less than 40	6.0
40 but less than 50	8.0
50 but less than 60	10.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) In the case of the transfers made under subparagraph (a)(1) of this section, the location differential credit (1) shall apply to the actual weight of the skim milk and butterfat moved, which weight shall not exceed the difference calculated by subtracting from the total pounds of skim milk and butterfat in Class I milk and Class II milk at the transferee plant the total skim milk and butterfat in producer milk physically received at such plant, and (2) shall be allowed to the transferee handler if such credit does not exceed the obligation of such handler to the producer-settlement fund for the month.

11. Section 1033.60 is revised to read as follows:

§ 1033.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, computed pursuant to § 1033.46(c), by the applicable class prices and add the resulting amounts. Subtract the location differential credits calculated pursuant to § 1033.53;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.46(a)(10) and the corresponding step of § 1033.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(5) and the corresponding step of § 1033.46(b);

(d) Add an amount equal to the difference between the value at the Class I price and the value at the Class III price (for other than butter), with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1033.46(a)(3) and the corresponding step of § 1033.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(7) and the corresponding step of § 1033.46(b).

12. Section 1033.61 is revised to read as follows:

§ 1033.61 Obligations of a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 17th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1033.31 (b) and (c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1033.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1033.60(e) and a credit in the amount specified in § 1033.72(b) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1033.31 (b) and (c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1033.7(c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class III price (for other than butter), whichever is higher.

13. Section 1033.63 is revised to read as follows:

§ 1033.63 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers who filed the reports prescribed by § 1033.30 for the month and who made the payments pursuant to § 1033.72 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1033.75;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent an amount computed by multiplying the

amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1033.74 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1033.60(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in subparagraph (e)(2) of this section by the weighted average price;

(h) Subtract from the remainder for each of the months of April, May, June, and July an amount computed by multiplying the total hundredweight of producer milk by the following amounts: 20 cents in April; 25 cents in May and June; and 20 cents in July;

(i) Add for each of the months of September, October, November and December 20, 30, 30 and 20 percent, respectively, of the total amount of the obligated balance in the producer-settlement fund pursuant to § 1033.71(b) on September 30 of such year;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

14. Section 1033.71 is revised to read as follows:

§ 1033.71 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1033.61 (a) and (b) and 1033.72 shall be deposited in this fund, and all payments made pursuant to § 1033.73 shall be made out of this fund;

(b) All amounts subtracted pursuant to § 1033.63(h) shall be deposited in this fund and shall remain therein as an obligated balance until withdrawn for the purpose of effectuating § 1033.63 (i); and

(c) The difference between the amount added pursuant to § 1033.63(d) and the amount resulting from the subtraction pursuant to § 1033.63 (f) or (k) shall be deposited in, or withdrawn from, this fund, as the case may be.

15. Section 1033.72 is revised to read as follows:

§ 1033.72 Payments to producer-settlement fund.

On or before the 17th day after the end of each month, each handler shall pay to the market administrator his obligation for milk for such month of which he is notified pursuant to § 1033.22 (i)(1) which shall consist of the amount specified in paragraph (a) of this section minus the amount of the credit in paragraph (b) of this section, less the amount paid out to each producer in accordance with § 1033.70, and less the amount of the deductions and charges authorized by such producer which are itemized on the handler's producer payroll:

(a) The total of the net pool obligation computed pursuant to § 1033.60 for such handler;

(b) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price for other than butter) with respect to other source milk for which values are computed pursuant to § 1033.60(e).

In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than an amount which, when added to the payment made to such producer in accordance with § 1033.70 (inclusive of the deductions and charges authorized by § 1033.70) will not exceed the total value of the milk received from such producer.

16. Section 1033.75 is revised to read as follows:

§ 1033.75 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1033.53; and

(b) For purposes of computations pursuant to § 1033.72 the weighted average price shall be adjusted at the rates set forth in § 1033.53 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1033.76 is revised to read as follows:

§ 1033.76 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 17th day after the end of the month two cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1033.46(a)(3) and § 1033.46(a)(7) and the corresponding steps of § 1033.46 (b) and (c) packaged Class I milk disposed of from partially regulated distributing plants on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1034—MILK IN DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

1. Section 1034.11 is revised to read as follows:

§ 1034.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

2. Section 1034.12 is revised to read as follows:

§ 1034.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces, under a dairy farm inspection permit or equivalent certification issued by the appropriate health authority in the marketing area, milk which is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association during the months of April through July and on not more than one-third of the days of delivery during any other month: *Provided*, That milk diverted pursuant to this section shall be deemed to have been received at a pool plant.

3. In § 1034.22, additional paragraphs (k), (l), and (m) are added and read as follows:

§ 1034.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1034.46(a)(6) and the corresponding step of § 1034.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1034.46 pursuant to such report,. and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. Section 1034.41 is revised to read as follows:

§ 1034.41 Classes of utilization.

Subject to the conditions set forth in § 1034.43 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products, other than those classified pursuant to paragraphs (b)(2) and (b)(3), except that fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of and used for livestock feed; and skim milk dumped;

(3) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section;

(4) Contained in inventory of fluid milk products on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1034.45(c)(1); and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1034.45(c)(2).

5. Section 1034.43 is revised to read as follows:

§ 1034.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product disposed of by a handler from a pool plant, including transfers or diversions by a cooperative association shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1034.46 (a)(6) and (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1034.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1034.46 (a)(6) and (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred, except in the form of cream in bulk, or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 100 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls in Dayton or Springfield, Ohio;

(d) As Class I milk, if transferred or diverted in bulk as any fluid milk product (in the case of cream the distance limitation shall not apply) to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 100 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls in Dayton or Springfield, Ohio, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1034.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of fluid milk products for such nonpool plant;

(ii) Class I utilization in excess of that assigned pursuant to subdivision (i) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of fluid milk products for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as

described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1034.41; and

(f) Other source milk caused by a cooperative association to be delivered from the plant of a person not a handler to the pool plant of a handler other than such cooperative association shall be considered as a transfer from the cooperative association to the handler if the cooperative association and the handler operating the pool plant to which such other source milk was caused by the cooperative association to be delivered both so indicate in their reports filed pursuant to § 1034.30.

6. Section 1034.45 is revised to read as follows:

§ 1034.45 Shrinkage.

Subject to paragraph (a) of this section, the quantities of skim milk and butterfat, respectively, at each pool plant to be classified as Class II milk pursuant to § 1034.41(b) (5) and (6) shall be computed as follows:

(a) If the sum of the quantities of skim milk and butterfat respectively, classified as Class I and Class II milk pursuant to §1034.41 (a) and (b) (1), (2), (3), and (4) equals or exceeds the receipts of skim milk and butterfat, respectively, required to be reported pursuant to § 1034.30, no skim milk or butterfat, respectively, shall be classified as Class II milk pursuant to § 1034.41(b) (5) and (6);

(b) Compute the total shrinkage of skim milk and butterfat; and

(c) Prorate the resulting amounts between the quantities specified in subparagraphs (1) and (2) of this paragraph. The amounts assigned to the quantities in subparagraph (1) of this paragraph shall not exceed 2.5 percent of such quantities and the amounts assigned to the other source milk included in subparagraph (2) of this paragraph shall equal the actual shrinkage allocated to these quantities.

(1) The receipts of producer milk at such plant less transfers of fluid milk products in bulk form to other pool plants; plus 60 percent of the fluid milk products transferred in bulk to other pool plants and plus 40 percent of the fluid milk products received in bulk from other pool plants and other order plants, exclusive of the quantities from other order plants for which Class II utilization was requested by the operator of such plant and the handler; and

(2) Other source milk in the form of fluid milk products exclusive of that specified in subparagraph (1) of this paragraph.

7. Section 1034.46 is revised to read as follows:

§ 1034.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1034.44, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1034.41(b) (5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract successively from the pounds of skim milk remaining in each class in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of fluid milk products in bulk at a pool plant from a nonpool plant which is neither an other order plant nor a producer-handler plant;

(v) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant to the extent of the pounds of skim milk remaining in Class II, if Class II utilization was requested by the operator of such plant and the handler;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(5) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1034.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(7) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1034.43;

(8) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section, except the subtraction to be made pursuant to paragraph (a)(3) of this section shall be made starting with Class II butterfat used to produce butter; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

8. Section 1034.60 is revised to read as follows:

§ 1034.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1034.46(c), by the applicable class prices (adjusted pursuant to § 1034.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1034.46(a)(8) and the corresponding step of § 1034.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1034.46(a)(4) and the corresponding step of § 1034.46(b);

(d) Subtract, for each hundredweight of butterfat in producer milk remaining in Class II milk and assigned to butterfat used to produce butter in a pool plant pursuant to § 1034.46(b) or transferred or diverted from a pool plant to a nonpool plant in the form of fluid milk or cream and which butterfat is not in excess of the butterfat used to produce butter in such nonpool plant, less the receipts of butterfat at such plant from sources other than pool plants pursuant to this part and farmers who hold permits to supply Grade A milk, and who the market administrator determines constitute the regular source of supply for fluid milk products for such nonpool plant, the difference between the value computed for butterfat pursuant to § 1034.52(a) divided by .035 and the Chicago butter price multiplied by 120 less $5.00 for each of the months of March through August and less $3.60 for each of the other months of the year; and

(e) Add or subtract, as the case may be, any amount necessary to correct any errors discovered by the market administrator in the verification of reports or payments of such handler for any previous month which result in payments due the producer-settlement fund or the handler.

9. Section 1034.77 is revised to read as follows:

§ 1034.77 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month two cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk including such handler's own production, and (b) other source milk allocated to Class I pursuant to § 1034.46(a)(3) (i) through (iv) and the corresponding steps of § 1034.46(b).

PART 1035—MILK IN COLUMBUS, OHIO, MARKETING AREA

1. Section 1035.11 is revised to read as follows:

§ 1035.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk, or cream acceptable to a local health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

2. Section 1035.14 is revised to read as follows:

§ 1035.14 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 1035.13(c);

(c) Any person who operates a partially regulated distributing plant; and

(d) A producer-handler, or any person who operates an other order plant described in § 1035.64.

3. In § 1035.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1035.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1035.46(a)(8) and the corresponding step of § 1035.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1035.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. Section 1035.31 is revised to read as follows:

§ 1035.31 Other reports.

(a) Each producer-handler shall report to the market administrator with respect to his receipts and utilization at such time and in such manner as the market administrator may request.

(b) Each handler specified in § 1035.14(c) who operates a partially regulated distributing plant shall report as required pursuant to § 1035.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk: *Provided,* That a handler making payments pursuant to § 1035.63(b) need not report payments pursuant to § 1035.30(d) to dairy farmers.

(c) The operator of a pool plant shall notify the cooperative association of his intention to divert milk of its member-producers pursuant to § 1035.13(c) not less than 24 hours prior to such diversion.

5. In § 1035.41, paragraph (b) (6) and (7) is revised to read as follows:

§ 1035.41 Classes of utilization.

* * * * *

(b) * * *

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1035.42(c)(1), but not to exceed two percent of such milk; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1035.42(c)(2).

6. Section 1035.42 is revised to read as follows:

§ 1035.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler;

(b) Add to the producer milk at such plant (1) the producer milk diverted to such handler from other pool plants, (2) bulk receipts of milk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler, and (3) bulk receipts of milk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler, and subtract from the producer milk at such plant the producer milk diverted from such handler's plant to another pool plant; and

(c) Prorate total shrinkage computed pursuant to paragraph (a) of this section between (1) the amount computed pursuant to paragraph (b) of this section, and (2) in other source milk received in the form of a fluid milk product in bulk exclusive of that specified in paragraph (b) of this section.

7. Section 1035.43 is revised to read as follows:

§ 1035.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to the pool plant of another handler subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1035.46(a)(8) and the corresponding step of § 1035.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1035.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1035.46(a)(7) or (8) and the corresponding steps of § 1035.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance as determined by the market administrator, from the nearer of the State Capitol in Columbus, Ohio, or the City Hall in Zanesville, Ohio;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the State Capitol in Columbus, Ohio, or the City Hall in Zanesville, Ohio, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1035.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1035.41.

8. Section 1035.46 is revised to read as follows:

§ 1035.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1035.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1035.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk re-

maining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1035.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1035.43(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1035.53 is revised to read as follows:

§ 1035.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 80 miles by shortest highway distance as measured by the market administrator, from the nearer of the State Capitol in Columbus, Ohio, or the City Hall in Zanesville, Ohio, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price computed pursuant to § 1035.51(a) shall be reduced by 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 90 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

10. Section 1035.60 is revised to read as follows:

§ 1035.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1035.46(c), by the applicable class prices (adjusted pursuant to §§ 1035.52 and 1035.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1035.46(a)(10) and the corresponding step of § 1035.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1035.46(a)(5) and the corresponding step of § 1035.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1035.46(a)(3) and the corresponding step of § 1035.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1035.46(a)(7) and the corresponding step of § 1035.46(b).

11. Section 1035.61 is revised to read as follows:

§ 1035.61 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1035.60 for all handlers who filed the reports prescribed by § 1035.30 for the month and who made the payments pursuant to §§ 1035.71 and 1035.72(c) for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1035.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1035.73 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1035.60(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each of the months of April, May, June and July an amount computed by multiplying the total hundredweight of milk received from producers during the month by the following amounts: 20 cents in April, 25 cents in May and June, and 20 cents in July;

(i) Add for each of the months of September, October, November and December 20, 30, 30 and 20 percent, respectively,

of the total amount subtracted during the immediately preceding April–July period pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

12. In § 1035.62 a new paragraph (b) is added to read as follows:

§ 1035.62 Notification of handlers.

* * * * *

(b) Notify each handler who operates a partially regulated distributing plant:

(1) On or before the 10th day after the end of each month, the administrative assessment to be paid by such handler pursuant to § 1035.76; and

(2) On or before the 20th day after the end of each month, the amount due the producer-settlement fund pursuant to § 1035.63.

13. Add a new § 1035.63 to read as follows:

§ 1035.63 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1035.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1035.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1035.60(e) and a credit in the amount specified in § 1035.71(c) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1035.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1035.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

§ 1035.70 [Amendment]

14. In § 1035.70(b) the reference "§ 1035.61(b)" is changed to "§ 1035.61(h)" and the reference "§ 1035.61(c)" is changed to "§ 1035.61(i)".

§ 1035.71 [Amendment]

15. Amend § 1035.71 by deleting the word "and" at the end of paragraph (a) thereof and adding at the end of such section the following: "and (c) the value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value of the Class II price) with respect to other source milk for which a value is computed pursuant to § 1035.60(e)."

16. Section 1035.74 is revised to read as follows:

§ 1035.74 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1035.53; and

(b) For purposes of computations pursuant to §1035.71(c) the weighted average price shall be adjusted at the rates set forth in § 1035.53 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1035.76 is revised to read as follows:

§ 1035.76 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month two cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1035.46(a)(3) and § 1035.46(a)(7) and the corresponding steps of § 1035.46 (b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1036—MILK IN NORTHEASTERN OHIO MARKETING AREA

1. In § 1036.6, paragraph (b) is revised and a new paragraph (d) is added to read as follows:

§ 1036.6 Handler.

* * * * *

(b) Any person who operates a partially regulated distributing plant;

* * * * *

(d) A producer-handler, or any person who operates an other order plant.

2. The introductory paragraph of § 1036.7 is revised to read as follows:

§ 1036.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, with respect to milk produced by him having the approval of the appropriate health authority in the marketing area for consumption as fluid milk which is:

3. Section 1036.9 is revised to read as follows:

§ 1036.9 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant", means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products acceptable to an appropriate health authority for distribution in the marketing area are distributed in consumer-type packages or dispenser units on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area is shipped to a pool plant.

4. In § 1036.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1036.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1036.46(h) and the corresponding step of § 1036.47, the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to §§ 1036.46 and 1036.47 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1036.30, the introductory paragraph is revised to read as follows:

§ 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of the month each handler who operates a pool plant, each handler specified in § 1036.6(b) who operates a partially regulated distributing plant, except as he is exempt pursuant to §§ 1036.90 and 1036.91, and any cooperative association with respect to milk for which it is a handler pursuant to § 1036.6(c) shall report for the preceding month to the market administrator in detail and on forms prescribed by the market administrator as follows:

5a. In § 1036.32, the introductory text is revised to read as follows:

§ 1036.32 Payroll reports.

On or before the 25th day after the end of each month, each handler who received milk from producers, and each handler except a handler who elected at the time of reporting to make payments pursuant to § 1036.75(b) who operates a partially regulated distributing plant shall submit to the market administrator his producer payroll for the month (in the case of the handler operating the partially regulated distributing plant, his payroll for qualified dairy farmers), which shall show:

6. In § 1036.41, paragraph (c) (6) and (7) is revised to read as follows:

§ 1036.41 Classes of utilization.

* * * * *

(c) * * *

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1036.42(a)(1), but not to exceed the following:

(i) Two percent of milk received from producers; plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handlers; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II or Class III utilization was requested by the operators of such plants and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; less

(v) One and one-half percent of milk disposed of in bulk tank lots to pool plants of other handlers;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1036.42(a)(2); and

7. In § 1036.42, paragraph (a) is revised to read as follows:

§ 1036.42 Shrinkage.

(a) If a handler has receipts of other source milk shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1036.41(c)(6); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1036.41(c)(6).

8. Section 1036.43 is revised to read as follows:

§ 1036.43 Transfers.

Skim milk or butterfat disposed of by a handler from a pool plant, including transfers or diversions made by a cooperative association shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to a pool plant of another handler subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1036.46(h) and the corresponding step of § 1036.47;

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.46(c) and the corresponding step of § 1036.47, the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1036.46 (g) or (h) and the corresponding steps of § 1036.47, the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 265 miles by the shortest highway distance as determined by the market administrator, from the Public Square in Cleveland, Ohio;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 265 miles, by the shortest highway distance as determined by the market administrator, from the Public Square in Cleveland, Ohio, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in

accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1036.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II or Class III milk, whichever is claimed; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III to the extent of the Class II or Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II or Class III, whichever is more nearly similar to the class to which allocated in the other order; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.41.

9. Section 1036.46 is revised to read as follows:

§ 1036.46 Allocation of butterfat classified.

The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract from the total pounds of butterfat in Class III the pounds of butterfat classified as Class III pursuant to § 1036.41(c)(6);

(b) Subtract from the remaining pounds of butterfat in each class the pounds of butterfat in fluid milk products received in packaged form from other order plants as follows:

(1) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

(2) From Class I milk, the remainder of such receipts;

(c) Subtract in the order specified below from the pounds of butterfat remaining in each class, in series beginning with Class III, the pounds of butterfat in each of the following:

(1) Other source milk in a form other than that of a fluid milk product;

(2) Receipts of fluid milk products for which appropriate health approval is not established, or which are from unidentified sources; and

(3) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(d) Subtract, in the order specified below, from the pounds of butterfat remaining in Class II or Class III but not in excess of such quantity;

(1) Receipts of fluid milk products from an unregulated supply plant:

(i) For which the handler requests Class II or Class III utilization; or

(ii) Which are in excess of the pounds of butterfat determined by multiplying the pounds of butterfat remaining in Class I milk by 1.25 and subtracting the sum of the pounds of butterfat in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants (subtract such excess first from the remaining Class III and next from the remaining Class II);

(2) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(e) Subtract from the pounds of butterfat remaining in each class, in series beginning with Class III, the pounds of butterfat in inventory of fluid milk products on hand at the beginning of the month;

(f) Add to the remaining pounds of butterfat in Class III milk the pounds subtracted pursuant to paragraph (a) of this section;

(g) Subtract from the pounds of butterfat remaining in each class, pro rata to such quantities, the pounds of butterfat in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to paragraph (d)(1) of this section;

(h) Subtract from the pounds of butterfat remaining in each class, in the following order, the pounds of butterfat in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to paragraph (d)(2) of this section;

(1) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of butterfat announced for the month by the market administrator pursuant to § 1036.22(1) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of butterfat of the handler; and

(2) From Class I, the remaining pounds of such receipts;

(i) Subtract from the pounds of butterfat remaining in each class the pounds of butterfat received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1036.43(a); and

(j) If the pounds of butterfat remaining in all classes exceed the pounds of butterfat in producer milk, subtract such excess from the pounds of butterfat remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

10. Section 1036.55 is revised to read as follows:

§ 1036.55 Handler location adjustment.

For milk received from producers at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, and which is either moved in fluid form to another pool plant or otherwise classified as Class I or Class II milk, and

for other source milk for which a location adjustment credit is applicable, the respective class prices for Class I and Class II utilization pursuant to §§ 1036.51 and 1036.52 shall be reduced at the rate specified below for the location of such plant or reload point except that in no case shall the adjustment to Class II utilization exceed 30 cents per hundredweight. For purposes of this limitation with respect to Class II utilization separate assignments in sequence shall be made pursuant to paragraph (b)(1) and (2) of this section with respect to Class I and Class II so that location adjustments associated with Class II shall be allocated to the most distant plants to which assignments are made.

(a) With respect to milk classified as Class I or Class II utilization without movement as a fluid milk product in bulk form to another pool plant;

(b) For purposes of calculating this adjustment, transfers between pool plants shall be assigned as follows:

(1) With respect to fluid milk products moved in bulk form to a pool plant described in § 1036.8(a) in a volume not in excess of that computed in accordance with the following assignment:

The volume by which an amount equal to 108 percent of Class I and Class II utilization at such transferee plant (including the volume assignable under the provisions of this subparagraph with respect to any transfers to a second such plant described in § 1036.8(a)), exceeds receipts of producer milk and the volume assigned as Class I and Class II to receipts from other order plants and unregulated supply plants at such plant will be assigned in sequence to (i) receipts in the form of fluid milk from reload points considered to be a part of such plant's operations, and (ii) to other receipts of fluid milk products from pool plants, other order plants, or reload points in the sequence at which the least total adjustments would apply.

(2) With respect to fluid milk products moved in bulk to pool plants described in § 1036.8 (b), (c), or (d), in a volume not in excess of that by which 108 percent of the milk classified as Class I or Class II utilization without movement as a fluid milk product in bulk form to another pool plant plus that assignable to such plant pursuant to subparagraph (1) of this paragraph exceeds receipts of producer milk and the volume assigned as Class I and Class II to receipts from other order plants and unregulated supply plants at such plant, such volume to be assignable to transferor plants in the sequence provided in subparagraph (1) of this paragraph;

(c) The rates of location adjustment credit shall be as follows, based on the shortest highway distance from the Public Square in Cleveland, Ohio, as determined by the market administrator:

Distance:	*Cents per hundredweight*
40.1–60 miles	13
60.1–70 miles	20

plus one cent per hundredweight for each 10 miles or fraction thereof in excess of 70 miles.

11. Section 1036.70 is revised to read as follows:

§ 1036.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1036.48, by the applicable class prices (adjusted pursuant to §§ 1036.54 and 1036.55);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1036.46(j) and the corresponding step of § 1036.47 by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the class price of the class from which subtracted for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.46(e) and the corresponding step of § 1036.47;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1036.46(c) and the corresponding step of § 1036.47;

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1036.46(g) and the corresponding step of § 1036.47.

12. Section 1036.71 is revised to read as follows:

§ 1036.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1036.70 for all handlers who filed the reports prescribed by § 1036.30 for the month and who made the payments pursuant to §§ 1036.80 and 1036.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1036.81;

(c) Add any amount paid into the producer-settlement fund and subtract any amount paid out of the producer-settlement fund pursuant to § 1036.88(a);

(d) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is more than 3.5 percent or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1036.82 and multiplying the result by the total hundredweight of such milk;

(e) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.70(e); and

(g) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

13. Add as § 1036.75 the following:

§ 1036.75 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant, except as he is exempt pursuant to § 1036.91, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1036.30 and 1036.32 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1036.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1036.70(e) and a credit in the amount specified in § 1036.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1036.30 and 1036.32 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.8(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross pay-

ments made by such handler for milk, acceptable to an appropriate health authority, received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or the Class III price, whichever is greater.

14. Section 1036.81 is revised to read as follows:

§ 1036.81 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to paragraphs (a) and (b) of § 1036.80 a handler may deduct with respect to all milk received from producers at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton, or the City Hall in Ashtabula, Ohio, by the shortest highway distance as determined by the market administrator, at the rates specified in § 1036.55 based on the mileage measured from the Public Square in Cleveland, Ohio.

(b) For purposes of computations pursuant to §§ 1036.84 and 1036.85 the uniform price shall be adjusted at the rates set forth in § 1036.55 applicable at the location of the nonpool plant from which the milk was received.

15. Section 1036.83 is revised to read as follows:

§ 1036.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", into which he shall deposit all payments made pursuant to § 1036.75 and § 1036.84 and out of which he shall make all payments pursuant to § 1036.85.

16. Section 1036.84 is revised to read as follows:

§ 1036.84 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1036.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1036.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1036.70(e).

17. Section 1036.85 is revised to read as follows:

§ 1036.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1036.84(b) exceeds the amount computed pursuant to § 1036.84(a) less any unpaid obligations of such handler to the market administrator pursuant to §§ 1036.84, 1036.86, 1036.87, or 1036.88: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

18. Section 1036.86 is revised to read as follows:

§ 1036.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1036.46(c) and § 1036.46 (g) and the corresponding steps of § 1036.47, and (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants, except one exempt pursuant to §1036.91, that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1037—MILK IN NORTH CENTRAL, OHIO, MARKETING AREA

§ 1037.9 [Amendment]

1. In § 1037.9 the reference "§ 1037.43 (d)" is changed to "§ 1037.43(f)".

2. Section 1037.10 is revised to read as follows:

§ 1037.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

3. Section 1037.11 is revised to read as follows:

§ 1037.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1037.12: *Provided*, That this definition shall not include any such person with respect to milk produced by him which is subject to the pricing and payment provisions of another marketing order issued pursuant to the Act.

4. Section 1037.13 is revised to read as follows:

§ 1037.13 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which is diverted by it in accordance with the conditions set forth in § 1037.12; and

(d) A producer-handler, or any person who operates an other order plant.

5. In § 1037.22, additional paragraphs (m) and (n) are added and read as follows:

§ 1037.22 Duties.

* * * * *

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1037.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. Section 1037.31 is revised to read as follows:

§ 1037.31 Other reports.

(a) Each handler, who operates a pool plant, shall report to the market administrator in the detail and on the forms prescribed by the market administrator, on or before the 22d day after the end of each month, his producer payroll for the month which shall show, (1) the name of each producer, (2) the pounds of producer milk received from each producer and the percentages of butterfat contained therein, (3) the amounts and dates of payments to each producer or cooperative association, and (4) the nature and amount of each deduction or charge involved in the payments referred to in subparagraph (3) of this paragraph;

(b) Each producer-handler and each handler pursuant to § 1037.80 shall report to the market administrator in the detail and on forms prescribed by the market administrator, at such time and in such manner as the market administrator may request;

(c) Each handler specified in § 1037.13 (b) who operates a partially regulated distributing plant shall report to the market administrator in the detail and on forms prescribed by the market administrator at such time and in such manner as the market administrator may request.

7. Section 1037.41 is revised to read as follows:

§ 1037.41 Classes of utilization.

Subject to the conditions set forth in §§ 1037.43 and 1037.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (other than a livestock feed) except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat accounted for as:

(1) Used to produce a product other than a fluid milk product;

(2) Inventory of fluid milk products on hand at the end of the month;

(3) Disposed of and used for livestock feeding or skim milk dumped;

(4) The weight of skim milk in fluid milk products which is excepted from Class I pursuant to paragraph (a)(1) of this section;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1037.42(c)(1) but not in excess of 2 percent of such receipts; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1037.42(c)(2).

8. Section 1037.42 is revised to read as follows:

§ 1037.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler;

(b) To the producer milk at such plant (including producer milk received as diverted milk from another pool plant and excluding producer milk diverted to another pool plant) add (1) bulk receipts of milk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler and (2) bulk receipts of milk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(c) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts of milk as computed in paragraph (b) of this section; and (2) remaining receipts of other source milk in the form of fluid milk products in bulk.

9. Section 1037.43 is revised to read as follows:

§ 1037.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred in the form of a fluid milk product in consumer packages to another pool plant;

(b) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, except as provided in paragraph (a) of this section, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1037.46(a)(7) and the corresponding step of § 1037.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1037.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1037.46(a)(7),

and the corresponding step of (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(c) As Class I milk, if transferred from a pool plant to a producer-handler;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1037.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II;

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1037.41; and

(f) A handler operating a pool distributing plant may assign Class I milk to a supply plant(s) which was a pool plant and which transferred milk to such distributing plant during at least three of the months of September through December, immediately preceding, even though such milk is not transferred physically to such distributing plant during the current month: *Provided,* That the pounds of Class I milk to be designated as Class II milk in the distributing plant and the corresponding pounds of Class II milk to be designated as Class I milk in the supply plant for the month shall not result in a higher proportion of the total producer milk at such supply plant being classified as Class I milk than the proportion classified as Class I milk at such distributing plant during such month.

10. Section 1037.46 is revised to read as follows:

§ 1037.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1037.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1037.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph; and

(ii) (*a*) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph:

(*b*) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1037.43 (a), (b), and (f); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1037.60 is revised to read as follows:

§ 1037.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler at each of his pool plants during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1037.46(c), by the applicable class prices (adjusted pursuant to §§ 1037.50(b) and 1037.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1037.46(a)(9) and the corresponding step of § 1037.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1037.46(a)(5) and the corresponding step of § 1037.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1037.46(a)(7)(i) and the corresponding step of § 1037.46(b) for the preceding month;

(d) In the case of pool distributing plants, add an amount computed by multiplying the hundredweight of Class I milk assigned to a supply plant(s) from such distributing plant pursuant to § 1037.43(f) by the difference between the Class I price at such distributing plant and the Class I price applicable at the respective supply plant;

(e) Adjust the resulting amount by the sum of money used in adjusting the uniform price for the previous month to the nearest cent, pursuant to § 1037.61; and

(f) Add or subtract, as the case may be, the amount necessary to correct errors in classification for previous delivery periods as disclosed by audit of the market administrator.

12. Section 1037.73 is revised to read as follows:

§ 1037.73 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 18th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1037.46(a)(3) and § 1037.46(a)(7)(i) and the corresponding steps of § 1037.46 (b), and (c) packaged Class I milk disposed of from partially regulated distributing plants on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

1. Section 1040.6 is revised to read as follows:

§ 1040.6 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) A cooperative association, with respect to milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned, operated by, or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at a location identical to the pool plant to which it is delivered);

(d) A cooperative association with respect to milk customarily received at a pool plant which is diverted to a nonpool plant for the account of such association;

(e) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either distributed on routes in the marketing area or shipped to a pool plant; or

(f) A producer-handler.

2. Section 1040.7 is revised to read as follows:

§ 1040.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in conformity with the sanitation requirements for fluid milk of any duly constituted health authority, which is:

(a) * * *

(b) * * *

§ 1040.9 [Amendment]

3. In § 1040.9 the reference to "§ 1040.43(d)" is deleted and "§ 1040.43 (e)" is substituted therefor.

4. A new § 1040.18 is added to read as follows:

§ 1040.18 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product conforming to the sanitation requirements of any duly constituted health authority for fluid consumption is shipped during the month to a pool plant.

5. In § 1040.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1040.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1040.46(a)(8) and the corresponding step of § 1040.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1040.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. Section 1040.30(b) is revised to read as follows:

§ 1040.30 Monthly reports of receipts and utilization.

* * * * *

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section. Such report by each handler pursuant to § 1040.6(b) shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

7. Section 1040.41 is revised to read as follows:

§ 1040.41 Classes of utilization.

Subject to the conditions set forth in §§ 1040.43 and 1040.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) (2), (3), and (4) of this section; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(3) Skim milk and butterfat disposed of as livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion within 18 hours) by the market administrator;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(5) Skim milk and butterfat in frozen cream;

(6) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(7) Skim milk and butterfat, respectively, in shrinkage but not in excess of 2.0 percent of each of the following:

(i) Producer milk;

(ii) Receipts of fluid milk products in bulk from other order plants exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(iii) Receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(iv) Less fluid milk products transferred in bulk to other order plants; and

(8) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1040.42(a)(2)(ii).

8. Section 1040.42 is revised to read as follows:

§1040.42 Shrinkage.

(a) The market administrator shall allocate shrinkage over a handler's receipts as follows:

(1) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(2) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(i) The net quantity of producer milk and other fluid milk products specified in § 1040.41(b)(7); and

(ii) Other source milk exclusive of that specified in § 1040.41(b)(7).

(b) Producer milk received at a supply plant and transferred in bulk from such plant to a distributing plant shall be subtracted from the producer milk receipts at the supply plant and added to the producer milk receipts at the distributing plant in computing shrinkage.

9. Section 1040.43 is revised to read as follows:

§ 1040.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, except as provided in paragraph (e) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such

class in the transferee plant after computations pursuant to § 1040.46(a)(8) and the corresponding step of § 1040.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1040.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1040.46(a)(7) or (8) and the corresponding steps of § 1040.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in the form of cream in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the handler claims Class II utilization and such nonpool plant is located in Pennsylvania, New Jersey, New York or New England;

(d) Except as provided in paragraph (c) of this section, as Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1040.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As producer milk in the transferee plant, if transferred as bulk milk to the pool plant of another handler by a cooperative association from its pool plant or in its capacity as a handler pursuant to § 1040.6(c). Such milk shall be excluded from producer milk to be classified as that of the cooperative association; and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1040.41.

10. Section 1040.46 is revised to read as follows:

§ 1040.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1040.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1040.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products that are not approved by a duly constituted health authority for fluid consumption, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in

each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1040.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1040.43(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1040.47, 1040.48 [Revocations]

11. Sections 1040.47 and 1040.48 are revoked.

12. A new § 1040.54(e) is added to read as follows:

§ 1040.54 Location adjustments to handlers.

* * * * *

(e) For the purpose of computations pursuant to §§ 1040.60 and 1040.66 the Class I price shall be adjusted at the applicable rate set forth in this section.

13. Section 1040.60 is revised to read as follows:

§ 1040.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1040.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1040.46(a)(10) and the corresponding step of § 1040.46 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(5) and the corresponding step of § 1040.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(3) and the corresponding step of § 1040.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(7) and the corresponding step of § 1040.46(b).

14. Section 1040.61 is revised to read as follows:

§ 1040.61 Computation of the 3.5 percent value of all milk.

For each month the market administrator shall compute the 3.5 percent value of all milk by:

(a) Combining into one total the individual values of milk of all handlers computed pursuant to § 1040.60;

(b) Adding if the weighted average butterfat test of all milk represented in paragraph (a) of this section is less than 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 1040.68 multiplied by 10;

(c) Adding the aggregate of the values of the applicable location adjustments pursuant to § 1040.67; and

(d) Adding not less than one-half of the unobligated balance in the producer-equalization fund.

15. Section 1040.62 is revised to read as follows:

§ 1040.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1040.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1040.60(e); and

(b) Subtract not less than six nor more than seven cents from the price computed pursuant to paragraph (a) of this section.

16. That part of § 1040.63 preceding the schedule is revised to read as follows:

§ 1040.63 Adjusted uniform price.

For the purpose of payments pursuant to § 1040.70(c) the uniform price computed pursuant to § 1040.62 shall be adjusted by deducting therefrom the applicable percentage specified below of the differences between the uniform price and the excess milk price, rounded to the nearest cent:

17. Section 1040.66 is revised to read as follows:

§ 1040.66 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1040.30 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1040.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1040.60(e) and a credit in the amount specified in § 1040.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1040.30 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1040.16(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1040.62 at the same location or at the Class II price, whichever is higher.

18. Section 1040.67 is revised to read as follows:

§ 1040.67 Location differentials to producers and on nonpool milk.

(a) In making payments to producers or cooperative associations pursuant to § 1040.80 a handler may deduct with respect to base milk and milk to be paid for at the uniform price or adjusted uniform price the zone rate per hundredweight applicable pursuant to § 1040.54 (a) for the location of the plant at which the milk was received, or if such plant is not located in a defined zone, the mileage rate applicable pursuant to § 1040.54(b).

(b) For purposes of computations pursuant to §§ 1040.82 and 1040.83 the uniform price shall be adjusted at the rates set forth in § 1040.54 applicable at the location of the nonpool plant from which the milk was received.

19. Section 1040.82 is revised to read as follows:

§ 1040.82 Payments to the producer-equalization fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The sum of:

(1) The net pool obligation computed pursuant to § 1040.60 for such handler; and

(2) In the case of a handler pursuant to § 1040.6(c), the minimum amount due from other handlers pursuant to § 1040.80(c).

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform and excess milk prices specified in § 1040.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1040.60(e).

20. Section 1040.83 is revised to read as follows:

§ 1040.83 Payments out of the producer-equalization fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1040.82(b) exceeds the amount computed pursuant to § 1040.82(a). The market administrator shall offset any payment due any handler against payments due from such handler: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

21. Section 1040.84 is revised to read as follows:

§ 1040.84 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month two cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including milk of such handler's own production), (b) other source milk allocated to Class I pursuant to § 1040.46(a) (3) and (7) and the corresponding steps of § 1040.46 (b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1041—MILK IN TOLEDO, OHIO, MARKETING AREA

1. Section 1041.8 is revised to read as follows:

§ 1041.8 Supply plant.

"Supply plant" means a milk plant from which milk, skim milk or cream is transferred to a pool plant qualified pursuant to § 1041.9.

2. Section 1041.10 is revised to read as follows:

§ 1041.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant'" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

3. Section 1041.11 is revised to read as follows:

§ 1041.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1041.12.

4. Section 1041.13 is revised to read as follows:

§ 1041.13 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk diverted by it in accordance with the conditions set forth in § 1041.12; and

(d) A producer-handler, or any person who operates an other order plant described in § 1041.80.

5. In § 1041.22, additional paragraphs (j) and (k) are added and read as follows:

§ 1041.22 Duties.

* * * * *

(j) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1041.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(k) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. Section 1041.31 is revised to read as follows:

§ 1041.31 Other reports.

(a) Each handler, who operates a pool plant, shall report to the market administrator in the detail and on the forms prescribed by the market administrator, on or before the 20th day after the end of each month, his producer payroll for the month which shall show (1) the pounds of producer milk received from each producer and the percentages of butterfat contained therein, (2) the amounts and dates of payments to each producer or cooperative association, and (3) the nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

(b) Each producer-handler and each handler who operates a partially regu-

lated distributing plant shall report to the market administrator in the detail and on forms prescribed by the market administrator, at such time and in such manner as the market administrator may request.

7. Section 1041.41 is revised to read as follows:

§ 1041.41 Classes of utilization.

Subject to the conditions set forth in §§ 1041.43 through 1041.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (except livestock feed) except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat accounted for as:

(1) Used to produce a product other than a fluid milk product;

(2) Inventory of fluid milk products on hand at the end of the month;

(3) Disposed of for livestock feed;

(4) The weight of skim milk in fluid milk products which is excepted from Class I pursuant to paragraph (a)(1) of this section;

(5) In actual shrinkage up to but not in excess of 2 percent of the receipts of skim milk and butterfat contained in producer milk, receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1041.42(b)(2).

8. Section 1041.42 is revised to read as follows:

§ 1041.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1041.41(b)(5); and

(2) Remaining receipts of other source milk in the form of fluid milk products.

9. Section 1041.43 is revised to read as follows:

§ 1041.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred in the form of a fluid milk product in consumer packages to another pool plant;

(b) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted in bulk from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1041.46(a)(7) and the corresponding step of § 1041.46(b);

(2) If the transferor plant received during the month order source milk to be allocated pursuant to § 1041.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1041.46(a)(7), and the corresponding step of § 1041.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(c) As Class I milk, if transferred from a pool plant to a producer-handler;

(d) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by shortest highway distance as determined by the market administrator from the City Hall of Toledo, Ohio;

(e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator from the City Hall of Toledo, Ohio, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1041.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) As follows, if moved to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classifi-

cation shall be in accordance with the provisions of § 1041.41; and

(g) For the purposes of paragraphs (c) through (e) of this section, skim milk and butterfat shall not be deemed to have been "disposed of" to a nonpool plant if merely retained in or transferred between trucks or other vehicles which enter the premises or come within the orbit of such plant in the course of movement elsewhere.

10. Section 1041.46 is revised to read as follows:

§ 1041.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1041.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1041.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1041.43 (a) and (b); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1041.53 is revised to read as follows:

§ 1041.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 60 miles by the shortest highway distance as measured by the market administrator, from the City Hall in Toledo, Ohio, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1041.50(a) shall be reduced by 15 cents, plus two cents for each 15 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I milk to the extent that the gross Class I utilization at the transferee plant exceeds 95 percent of the receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. Section 1041.60 is revised to read as follows:

§ 1041.60 Computation of the net obligation of each handler.

The net obligation of each handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1041.46(c), by the applicable class prices (adjusted pursuant to §§ 1041.52 and 1041.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1041.46(a)(9) and the corresponding step of § 1041.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1041.46(a)(5) and the corresponding step of § 1041.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1041.46(a)(7)(i) and the corresponding step of § 1041.46(b) for the preceding month; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

13. Section 1041.74 is revised to read as follows:

§ 1041.74 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month two cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk, (b) other source milk allocated to Class I pursuant to § 1041.46(a)(3) and § 1041.46(a)(7)(i) and the corresponding steps of § 1041.46(b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1042—MILK IN MUSKEGON, MICH., MARKETING AREA

1. Section 1042.7 is revised to read as follows:

§ 1042.7 Handler.

"Handler" means:

(a) A person who operates a pool plant;

(b) A person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to milk customarily received by a handler as described under paragraph (a) of this section, which is diverted to a non-handler for the account of the association;

(d) A person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(e) A producer-handler.

2. Section 1042.8 is revised to read as follows:

§ 1042.8 Producer.

"Producer" means any dairy farmer, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, whose milk is delivered from his farm to a pool plant, or to any other plant by diversion from a pool plant for the account of a handler.

3. A new § 1042.16 is added to read as follows:

§ 1042.16 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. A new § 1042.17 is added to read as follows:

§ 1042.17 Distributing plant.

"Distributing plant" means a plant from which any fluid milk product approved by a duly constituted health authority for fluid consumption that is processed or packaged in such plant is disposed of during the month in the marketing area on routes.

5. A new § 1042.18 is added to read as follows:

§ 1042.18 Supply plant.

"Supply plant" means a plant from which milk conforming to the sanitation requirements of any duly constituted health authority for fluid consumption is shipped during the month to a pool plant.

6. A new § 1042.19 is added to read as follows:

§ 1042.19 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, and sweet or sour cream.

7. In § 1042.22, additional paragraphs (k), (l), and (m) are added and read as follows:

§ 1042.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1042.46(a)(8) and the corresponding step of § 1042.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1042.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

8. Section 1042.30 is revised to read as follows:

§ 1042.30 Reports of receipts and utilization.

* * * * *

(d) Each handler specified in § 1042.7(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk.

9. Section 1042.41 is revised to read as follows:

§ 1042.41 Classes of utilization.

Subject to the conditions set forth in §§ 1042.42 and 1042.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of for consumption in fluid form as milk, skim milk, buttermilk, flavored milk and sweet or sour cream, except as provided in paragraph (b) (2) and (3) of this section; and

(2) Not accounted for as Class II milk:

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce ice cream, ice cream mix, cottage cheese, whole or skim condensed or evaporated milk (sweetened or unsweetened) in bulk or in hermetically sealed cans, cheese, dried whole milk, nonfat dry milk or butter;

(2) Skim milk authorized by the market administrator to be dumped or accounted for as disposed of as livestock feed;

(3) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(4) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(5) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

(i) 2.0 percent of milk received from producers;

(ii) Plus 2.0 percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(iii) Plus 2.0 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(iv) Less 2.0 percent of fluid milk products moved in bulk to other order plants; and

(6) Skim milk and butterfat in shrinkage allocated pursuant to § 1042.42(a)(2).

10. Section 1042.42(a) is revised to read as follows:

§ 1042.42 Shrinkage.

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler and prorate such shrinkage between:

(1) The net quantity of milk received from producers and other fluid milk products specified in § 1042.41(b)(5); and

(2) Other source milk exclusive of that specified in § 1042.41(b)(5).

* * * * *

11. Section 1042.43 is revised to read as follows:

§ 1042.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after com-

putations pursuant to § 1042.46(a)(8) and the corresponding step of § 1042.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1042.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1042.46(a)(7) or (8) and the corresponding steps of § 1042.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1042.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (d), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1042.41.

12. Section 1042.46 is revised to read as follows:

§ 1042.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1042.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1042.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products that are not approved by a duly constituted health authority for fluid consumption, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1042.22(k) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds

of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1042.43(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1042.47 [Revocation]

13. Section 1042.47 is revoked.

14. Section 1042.60 is revised to read as follows:

§ 1042.60 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1042.30 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1042.61 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1042.61(e) and a credit in the amount specified in § 1042.83(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1042.30 a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1042.6(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1042.63 at the same location or at the Class II price, whichever is higher.

15. Section 1042.61 is revised to read as follows:

§ 1042.61 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1042.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1042.46(a)(10) and the corresponding step of § 1042.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1042.46(a)(5) and the corresponding step of § 1042.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values of the skim milk and butterfat subtracted from Class I pursuant to § 1042.46(a)(3) and the corresponding step of § 1042.46(b); and

(e) Add the value at the Class I price of the skim milk and butterfat subtracted from Class I pursuant to § 1042.46(a)(7) and the corresponding step of § 1042.46(b).

16. Section 1042.63 is revised to read as follows:

§ 1042.63 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1042.62 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1042.61(e); and

(b) Subtract not less than six nor more than seven cents from the price computed pursuant to paragraph (a) of this section.

17. Section 1042.83 is revised to read as follows:

§ 1042.83 Payments to the producer-equalization fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1042.61 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1042.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1042.61(e).

18. Section 1042.84 is revised to read as follows:

§ 1042.84 Payments out of the producer-equalization fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1042.83(b) exceeds the amount computed pursuant to § 1042.83(a) less any unpaid obligations of such handler to the market administrator pursuant to § 1042.83(a): *Provided*, That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments as soon as the necessary funds become available.

19. Section 1042.85 is revised to read as follows:

§ 1042.85 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such han-

dler's own production), (b) other source milk allocated to Class I pursuant to § 1042.46(a) (3) and (7) and the corresponding steps of § 1042.46(b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1043—MILK IN UPSTATE MICHIGAN MARKETING AREA

1. Section 1043.9 is revised to read as follows:

§ 1043.9 Handler.

"Handler" means:

(a) The operator of a pool plant(s) in his capacity as such;

(b) A person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant;

(d) A person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(e) A producer-handler.

2. Section 1043.10 is revised to read as follows:

§ 1043.10 Qualified dairy farmer.

"Qualified dairy farmer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in conformity with the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of a fluid milk product.

3. A new § 1043.18 is added to read as follows:

§ 1043.18 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product conforming to the sanitation requirements of any duly constituted health authority for fluid consumption is shipped during the month to a pool plant.

4. In § 1043.22, additional paragraphs (j), (k) and (l) are added and read as follows:

§ 1043.22 Duties.

* * * * *

(j) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1043.46(a)(8) and the corresponding step of § 1043.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(k) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1043.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(l) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In section 1043.30, items (2) and (3) are revised to read as follows:

§ 1043.30 Monthly reports of receipts and utilization.

* * * * *

(2) The utilization or disposition of such receipts. Each handler pursuant to § 1043.9(b) shall report the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk; and

(3) Such other information with respect to such receipts and their utilization or disposition as the market administrator may prescribe.

6. Section 1043.41 is revised to read as follows:

§ 1043.41 Classes of utilization.

Subject to the conditions set forth in §§ 1043.42 and 1043.43, the classes of utilization shall be:

(a) *Class I milk.* Class I milk shall be:

(1) Skim milk and butterfat disposed of for consumption in the form of fluid milk products, except as provided in paragraphs (b)(3) and (4) and (c)(2) of this section; and

(2) Skim milk and butterfat not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than those specified in paragraph (a) or (c) of this section;

(2) Skim milk and butterfat disposed of as fluid cream;

(3) Skim milk represented by the nonfat solids added to a fluid milk product which is not in excess of the weight of an equivalent volume of the fluid milk product prior to such addition;

(4) Skim milk and butterfat in fluid milk products and cream in inventory at the end of the month; and

(5) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 2.0 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(iii) Plus 2.0 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and

(iv) Less 2.0 percent of fluid milk products transferred in bulk to other order plants; and

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce butter, dry milk (either whole or nonfat) or cheese in any form except cottage cheese;

(2) Skim milk and butterfat disposed of for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and

(3) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1043.42(a)(2).

7. Section 1043.42(a) is revised to read as follows:

§ 1043.42 Shrinkage.

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler and prorate such shrinkage between:

(1) The net quantity of producer milk and other fluid milk products specified in § 1043.41(b)(5); and

(2) Other source milk exclusive of that specified in § 1043.41(b)(5).

8. Section 1043.43 is revised to read as follows:

§ 1043.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1043.46(a)(8) and the corresponding step of § 1043.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1043.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1043.46(a)(7) or (8) and the corresponding steps of § 1043.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1043.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk and Class III milk, in series beginning with Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III to the extent of the Class II or Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II or Class III; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1043.41.

9. Section 1043.46 is revised to read as follows:

§ 1043.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1043.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1043.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and cream received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product or cream;

(ii) Receipts of fluid milk products and cream that are not approved by a duly constituted health authority for fluid consumption, or which are from unidentified sources; and

(iii) Receipts of fluid milk products and cream from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III but not in excess of such quantity:

(i) Receipts of fluid milk products and cream from an unregulated supply plant:

(*a*) For which the handler requests Class II or Class III utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products and cream in bulk from an other order plant in excess of similar transfers to such plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in Class I and Class II, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products and cream on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products and cream from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products and cream in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1043.22(j) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products and cream from other pool plants according to the classification assigned pursuant to § 1043.43(a);

(10) If the pounds of skim milk remaining in the various classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1043.47, 1043.48 [Revocation]

10. Sections 1043.47 and 1043.48 are revoked.

11. Section 1043.53 is revised to read as follows:

§ 1043.53 Location differentials to handlers.

For milk which is received from producers and other source milk (for which a location adjustment is applicable) at a plant located more than 90 miles but not more than 110 miles, by shortest highway distance, as determined by the market administrator, from the Court House in either Grayling or Manistee, whichever is closer, and utilized as Class I, the price shall be the price effective pursuant to § 1043.51(a), less 12 cents, and less 1 cent additional for each 20 miles or fraction thereof over 110 miles;

12. Section 1043.60 is revised to read as follows:

§ 1043.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1043.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1043.46(a)(10) and the corresponding step of § 1043.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1043.46(a)(5) and the corresponding step of § 1043.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1043.46(a)(3) and the corresponding step of § 1043.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1043.46(a)(7) and the corresponding step of § 1043.46(b).

13. Section 1043.61 is revised to read as follows:

§ 1043.61 Computation of uniform prices.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1043.60 for all handlers who filed the reports prescribed by § 1043.30 for the month and who made the payments pursuant to §§ 1043.70 and 1043.72 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1043.63;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (a) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1043.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1043.60(e); and

(f) Subtract not less than 6 cents nor more than 7 cents per hundredweight. The result shall be the uniform price.

14. Section 1043.63 is revised to read as follows:

§ 1043.63 Location differentials to producers and on nonpool milk.

The uniform price for milk received at a plant shall be reduced according to the location of such plant at the rates set forth in § 1043.53.

15. Section 1043.72 is revised to read as follows:

§ 1043.72 Payments to the producer-equalization fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1043.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1043.70; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1043.60(e).

16. Section 1043.73 is revised to read as follows:

§ 1043.73 Payments out of the producer-equalization fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1043.72(b) exceeds the amount computed pursuant to § 1043.72(a) less any unpaid obligations of such handler to the market administrator pursuant to § 1043.72: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

17. Section 1043.74 is revised to read as follows:

§ 1043.74 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1043.46(a) (3) and (7) and the corresponding steps of § 1043.46 (b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

18. Section 1043.84 is revised to read as follows:

§ 1043.84 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1043.30 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1043.61 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1043.60(e) and a credit in the amount specified in § 1043.72(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1043.30 a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1043.8(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1043.61 at the same location or at the Class II price, whichever is higher.

PART 1044—MILK IN MICHIGAN UPPER PENINSULA MARKETING AREA

1. Section 1044.9 is revised to read as follows:

§ 1044.9 Nonfluid milk plant.

"Nonfluid milk plant" means any milk receiving, manufacturing or processing plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product conforming to the sanitation requirements of any duly constituted health authority for fluid consumption is shipped during the month to a fluid milk plant.

2. Section 1044.10(a)–(f) are revised to read as follows:

§ 1044.10 Handler.

* * * * *

(a) Any person in his capacity as the operator of one or more fluid milk plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to milk from producers which it causes to be diverted from a fluid milk plant to another plant for the account of such cooperative association;

(d) Any cooperative association, at its election, with respect to member milk delivered from the farm to the fluid milk plant of another handler in a tank truck operated by or under contract to the cooperative association. To elect this handler status, the market administrator must be notified prior to the first day of the month during which these deliveries will take place. Milk delivered pursuant to this paragraph is deemed to have been received at the location of the milk plant to which it is delivered;

(e) Any person in his capacity as the operator of an other order plant that would otherwise qualify as a fluid milk plant; or

(f) A producer-handler.

3. Section 1044.11 is revised to read as follows:

§ 1044.11 Producer.

"Producer" means a person, other than a producer-handler as defined in any order (including this part) who produces milk in conformity with the sanitation requirements for Grade A milk of any duly constituted health authority, or in conformity with the requirements of Michigan Act No. 169, Public Acts 1929, as amended which milk is:

(a) Received at a fluid milk plant; or

(b) Diverted from such plant for the account of a handler.

4. In § 1044.22, the reference "§ 1044.34" in paragraph (f) is deleted and "§ 1044.33" is substituted therefor and additional paragraphs (l) and (m) are added to read as follows:

§ 1044.22 Duties.

* * * * *

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1044.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a fluid milk plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1044.30 is revised to read as follows:

§ 1044.30 Monthly reports of receipts and utilization.

On or before the 5th day (exclusive of Sundays and holidays) of each month, each handler shall report to the market administrator for the preceding month in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler for each fluid milk plant shall report:

(1) The quantities of butterfat and skim milk contained in or represented by:

(i) Producer milk,

(ii) Fluid milk products received from other fluid milk plants,

(iii) Other source milk, and

(iv) Inventories of fluid milk products on hand at the end of each month;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section; and

(3) Such other information with respect to sources and disposition as the market administrator may prescribe.

(b) Each handler specified in § 1044.10(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

6. Section 1044.33 is revised to read as follows:

§ 1044.33 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler exempt pursuant to §§ 1044.81 or 1044.82 shall report to the market administrator his disposition of fluid milk products on routes within the marketing area at such time and in such manner as the market administrator shall prescribe.

(c) Each handler pursuant to § 1044.10(d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 5th day of each month the quantities of skim milk and butterfat in producer milk delivered to each fluid milk plant in the preceding month.

§§ 1044.34, 1044.35 [Revocation; Redesignation]

7. Section 1044.34 is revoked and §§ 1044.35 and 1044.36 are redesignated §§ 1044.34 and 1044.35, respectively.

8. Section 1044.41(b) (5) and (6) is revised to read as follows:

§ 1044.41 Classes of utilization.

* * * * *

(b) * * *

(5) Skim milk and butterfat, respectively (except in milk diverted to a nonfluid milk plant pursuant to § 1044.14), in shrinkage but not in excess of:

(i) 2.0 percent of producer milk except that received from a handler pursuant to § 1044.10(d);

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1044.10(d): *Provided*, That if the handler receiving such producer milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2.0 percent;

(iii) Plus 1.5 percent of bulk fluid milk products from fluid milk plants of other handlers;

(iv) Plus 1.5 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(6) Skim milk and butterfat in shrinkage assigned pursuant to § 1044.42 (b)(2).

9. Section 1044.42 is revised to read as follows:

§ 1044.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts for each of his fluid milk plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each fluid milk plant; and

(b) Prorate the resulting amounts between receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1044.41(b)(5); and

(2) Other source milk exclusive of that specified in § 1044.41(b)(5).

10. Section 1044.43 is revised to read as follows:

§ 1044.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a fluid milk plant to another fluid milk plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1044.46(a)(7) and the corresponding step in § 1044.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1044.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1044.46(a)(7) and the corresponding step of § 1044.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a fluid milk plant to a producer-handler or an exempt handler pursuant to § 1044.81;

(c) As Class I milk, if transferred or diverted in bulk to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1044.30 for the month within which such transaction occurred;

(2) The operator of such nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all fluid milk plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from fluid milk plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonfluid milk plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonfluid milk plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonfluid milk plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonfluid milk plant from all fluid milk and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1044.41.

11. Section 1044.46 is revised to read as follows:

§ 1044.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1044.45, the market administrator shall determine the classification of producer milk at each fluid milk plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1044.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products that are not approved by a duly constituted health authority, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all fluid milk plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other fluid milk plant handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all fluid milk plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk

at other fluid milk plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other fluid milk plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all fluid milk plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph; and

(ii) (*a*) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph:

(*b*) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the fluid milk plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other fluid milk plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other fluid milk plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other fluid milk plants according to the classification assigned pursuant to § 1044.43(a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1044.47, 1044.48 [Revocations]

12. Sections 1044.47 and 1044.48 are revoked.

§ 1044.52 [Amendment]

13. In § 1044.52, the reference "§ 1044.48" is deleted and "§ 1044.46(c)" is substituted therefor.

14. Section 1044.60 is revised to read as follows:

§ 1044.60 Computation of the net obligation of each handler.

The net obligation of each handler at fluid milk plant(s) shall be computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1044.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1044.46(a)(9) and the corresponding step of § 1044.46 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1044.46(a)(5) and the corresponding step of § 1044.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1044.46(a)(7)(i) and the corresponding step of § 1044.46(b) for the preceding month; and

(d) Add or subtract, as the case may be, the amount necessary to correct errors in receipts or utilization for previous months as disclosed by audit by the market administrator.

15. Section 1044.71 is revised to read as follows:

§ 1044.71 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production) and (b) other source milk allocated to Class I pursuant to § 1044.46(a) (3) and (7) (i) and the corresponding steps of § 1044.46(b).

§ 1044.80 [Amendment]

16. In § 1044.80, the reference "§§ 1044.33, 1044.35, and 1044.36" is deleted and "§§ 1044.33, 1044.34 and 1044.35" is substituted therefor.

§ 1044.81 [Amendment]

17. In § 1044.81, the reference "§§ 1044.34 through 1044.36" is deleted and "§§ 1044.33 through 1044.35" is substituted therefor.

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.7 is revised to read as follows:

§ 1046.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act:

(a) Who produces milk on a dairy farm which is approved by a duly constituted health authority for the production of milk for fluid disposition (this definition shall include approval of milk by the authority to administer the regulations governing the quality of milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases located in the marketing area during any month in which such milk is disposed of to such institution or bases); and

(b) Whose milk so produced pursuant to paragraph (a) of this section is received at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1046.8(c) or diverted in accordance with the conditions set forth in § 1046.14.

2. In § 1046.8, paragraph (a) is revised and new paragraphs (d) and (e) are added to read as follows:

§ 1046.8 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant;

* * * * *

(d) Any person who operates a partially regulated distributing plant; and

(e) A producer-handler, or any person who operates an other order plant described in § 1046.61.

3. Section 1046.13 is revised to read as follows:

§ 1046.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

§ 1046.22 [Amendment]

4. In paragraphs (i) and (l) of § 1046.22, the reference "1046.61" is revoked.

4a. In § 1046.22, additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1046.22 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1046.46(a)(8) and the corresponding step of § 1046.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1046.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1046.30, paragraph (b) is revised to read as follows:

§ 1046.30 Reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1046.8(d) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

6. Section 1046.31 is revised to read as follows:

§ 1046.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who received milk from producers or from a cooperative association of producers and each handler who is the operator of a partially regulated distributing plant and who does not elect to make payments pursuant to § 1046.62(b) shall submit to the market administrator for each of his plants his producer or dairy farmer payroll for deliveries during the month which shall show (a) the total pounds of milk received from each producer, producer cooperative association or dairy farmer, and the average butterfat content of such milk, (b) the prices paid and the amount of payment to each producer, producer cooperative association, or dairy farmer, and (c) the nature and amount of any credits, deductions, or charges involved in such payments.

§ 1046.40 [Amendment]

7. In § 1046.40, the references "§§ 1046.30 and 1046.62" are changed to "§ 1046.30".

8. In § 1046.41, paragraphs (a)(1), and (b) (7) and (8) are revised to read as follows:

§ 1046.41 Classes of utilization.

* * * * *

(a) * * *

(1) Disposed of in the form of a fluid milk product, except skim milk and butterfat disposed of in fluid form pursuant to paragraph (b) (4) and (5) of this section: *Provided*, That fluid milk products which have been fortified with nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

* * * * *

(b) * * *

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1046.42(b)(1), but not to exceed the following:

(i) Two percent of skim milk and butterfat, respectively, in producer milk physically received at a pool plant; plus

(ii) One and one-half percent of skim milk and butterfat, respectively, in milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1046.8(c), except that if the handler operating such pool plant files notice with the market administrator on or before the date he submits his monthly report applicable to such milk pursuant to § 1046.30 that he is purchasing such milk on the basis of weights determined at the farm from farm bulk tank measurements, the applicable percentage shall be two percent; plus

(iii) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products received at a pool plant in bulk as a transfer from other pool plants; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products transferred in bulk from a pool plant to other plants; and plus

(vii) One-half of one percent of skim milk and butterfat, respectively, in producer milk received by a cooperative association in its capacity as a handler pursuant to § 1046.8(c), unless the exception provided in subdivision (ii) of this subparagraph applies; and

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1046.42(b)(2).

9. Section 1046.42 is revised to read as follows:

§ 1046.42 Shrinkage.

The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant by subtracting the skim milk and butterfat, respectively, classified as Class I milk pursuant to § 1046.41 (a)(1) and as Class II milk pursuant to § 1046.41(b) (1) through (6) (subject to the provisions of §§ 1046.43 through 1046.45) from the receipts of skim milk and butterfat, respectively, required to be reported pursuant to § 1046.30; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1046.41(b)(7); and (2) skim milk and butterfat in other source milk received as fluid milk products in bulk, exclusive of that specified in § 1046.41(b)(7).

10. Section 1046.44 is revised to read as follows:

§ 1046.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization reported pursuant to § 1046.30 by the operator(s) of both plants, otherwise as Class I milk, if transferred from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1046.8(c) to another pool plant of the same handler or another handler unless Class II utilization is claimed by the transferee and transferor handlers in their reports pursuant to § 1046.30 for the month, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1046.46(a)(8) and the corresponding step of § 1046.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1046.46(a)(3) and the corresponding step of § 1046.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1046.46(a) (7) or (8) and the corresponding steps of § 1046.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) If a specified utilization of skim milk and butterfat transferred to a pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1046.8(c) is not claimed by both handlers pursuant to paragraph (a) of this section, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the receiving handler after making the assignment pursuant to § 1046.46(a)(8) and the corresponding step of § 1046.46 (b), and after assignment of milk for which specified classification has been claimed by handlers pursuant to paragraph (a) of this section;

(c) As Class I milk, if transferred from a pool plant to a producer-handler;

(d) As Class I milk, if transferred in bulk (in the form of milk, skim milk or cream) or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located 250 airline miles or more as determined by the market administrator, from the nearer of the City Halls in either Louisville, Kentucky, or Evansville, Indiana.

(e) As Class I milk, if transferred in bulk (in the form of milk, skim milk or cream) or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant located less than 250 airline miles as determined by the market administrator, from the nearer of the City Halls in either Louisville, Kentucky, or Evansville, Indiana, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1046.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants: *Provided,* That if the nonpool plant disposed of cream in bulk such disposition shall be accounted for as Class II use if the handler claims classification of such cream as Class II, establishes that such cream was transferred without Grade A certification, each shipping container was tagged or labeled to show that the contents were for manufacturing use only, and the shipment of such cream was invoiced accordingly, and affords the market administrator at least 24 hours notice prior to shipment of such cream so that he may verify such shipment:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1046.41.

11. Section 1046.46 is revised to read as follows:

§ 1046.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1046.45, the market administrator shall determine for each pool plant the classification of producer milk for each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1046.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from pool plants of other handlers, from a cooperative association as a handler pursuant to § 1046.8(c), and in bulk receipts from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk and receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaning in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1046.22(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association as a handler pursuant to § 1046.8(c) according to the classification assigned pursuant to § 1046.44 (a) or (b); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1046.53 is revised to read as follows:

§ 1046.53 Location differentials to handlers.

(a) For that milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1046.8(c) at a pool plant located at any point which is 85 miles or more from the City Hall in Evansville, Indiana, or Louisville, Lexington, Danville, Elizabethtown, or Madisonville, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1046.70, the price specified in § 1046.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received:

Distance from City Hall:	*Rate per hundredweight (cents)*
85 miles but less than 95 miles	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which

is in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1046.8(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§§ 1046.61; 1046.63 [Revocation; Redesignation]

13. Section 1046.61 is revoked. Section 1046.63 is redesignated § 1046.61.

14. Section 1046.62 is revised to read as follows:

§ 1046.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1046.30(b) and 1046.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1046.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1046.70(e) and a credit in the amount specified in § 1046.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1046.30(b) and 1046.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1046.12(b) and (c) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

15. Section 1046.70 is revised to read as follows:

§ 1046.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1046.8 (a), (b), and (c) during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1046.46(c), by the applicable class prices (adjusted pursuant to §§ 1046.52 and 1046.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1046.46(a)(10) and the corresponding step of § 1046.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.46(a)(5) and the corresponding step of § 1046.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1046.46(a)(3) and the corresponding step of § 1046.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1046.46(a)(7) and the corresponding step of § 1046.46(b).

16. Section 1046.71 is revised to read as follows:

§ 1046.71 Computation of weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1046.70 for all handlers who filed the reports prescribed by § 1046.30 for the month and who are not in default of payments pursuant to § 1046.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1046.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1046.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1046.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July an amount equal to the hundredweight of producer milk included in these computations multiplied by 12 percent of the simple average of the basic formula prices, computed to the nearest cent, for the 12 months of the preceding calendar year;

(i) Add during each of the months of September, October, November and December one-fourth of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uni-

form price" per hundredweight for milk of 3.5 percent butterfat received from producers.

§ 1046.80 [Amendment]

17. In paragraph (b) of § 1046.80, the words "plus the per hundredweight payment provided by § 1046.85(b)" are revoked.

18. Section 1046.82 is revised to read as follows:

§ 1046.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1046.53; and

(b) For purposes of computations pursuant to §§ 1046.84 and 1046.85 the weighted average price shall be reduced at the rates set forth in § 1046.53 applicable at the location of the nonpool plant(s) from which the milk was received.

§ 1046.83 [Amendment]

19. In § 1046.83, the reference "1046.61" is revoked.

20. Section 1064.84 is revised to read as follows:

§ 1046.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1046.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1046.70(e).

21. Section 1046.85 is revised to read as follows:

§ 1046.85 Payments out of the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1046.84(b) exceeds the amount computed pursuant to § 1046.84(a): *Provided,* That the market administrator shall offset any payment due any handler against payments due from such handler, and if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

22. Section 1046.88 is revised to read as follows:

§ 1046.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1046.8(c), shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production) and milk received from a cooperative association as a handler pursuant to § 1046.8(c); (b) other source milk allocated to Class I pursuant to § 1046.46(a) (3) and (7) and the corresponding steps of § 1046.46(b); and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1047—MILK IN FORT WAYNE, INDIANA, MARKETING AREA

1. Section 1047.7 is revised to read as follows:

§ 1047.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who in compliance with the Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State or municipal institutions, which milk is received at a pool plant or is diverted pursuant to § 1047.14.

2. In § 1047.8, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

§ 1047.8 Handler.

* * * * *

(b) Any person who operates a partially regulated distributing plant;

* * * * *

(e) A producer-handler, or any person who operates an other order plant.

3. Section 1047.13 is revised to read as follows:

§ 1047.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

4. In § 1047.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1047.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1047.46(a)(8) and the corresponding step of § 1047.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purposes;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1047.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any change in such classification arising in the verification of such report.

5. Section 1047.30 is revised to read as follows:

§ 1047.30 Reports of receipts and utilization.

By mailing on or before the 6th day after the end of each month, or by delivery not later than the 8th day after the end of the month, each handler, except a producer-handler and a handler pursuant to § 1047.61, shall report to the market administrator for such month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) For a pool handler, reporting separately for each of his pool plants, the

report shall show the quantities of skim milk and butterfat contained in:

(1) Receipts of milk from producers, including receipts of the handler's own production;

(2) The quantities of skim milk and butterfat contained in milk and milk products received from other pool plants and a cooperative association which is a handler pursuant to § 1047.8(d);

(3) The quantities of skim milk and butterfat contained in other source milk, including milk which has been classified and priced under other Federal orders;

(b) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(c) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the disposition of Class I milk inside the marketing area;

(d) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require; and

(e) Each handler specified in § 1047.8 (b) who operates a partially regulated distributing plant shall report as required in paragraphs (a) through (d) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk.

6. In § 1047.31, paragraph (b) is revised to read as follows:

§ 1047.31 Payroll reports.

* * * * *

(b) Each handler operating a partially regulated distributing plant shall report to the market administrator on or before the 15th day after the end of the month the same information as required pursuant to paragraph (a)(1) of this section if he wishes his obligation pursuant to § 1047.62 to be figured according to § 1047.62(b). In such report payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

7. Section 1047.41 is revised to read as follows:

§ 1047.41 Classes of utilization.

Subject to the conditions set forth in §§ 1047.42 to 1047.47 the classes of utilization shall be as follows:

(a) *Class I.* Class I shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, other than those classified pursuant to paragraph (b) (2), (3), (4), and (5) of this section, except that fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) Not accounted for as Class II.

(b) *Class II.* Class II shall be:

(1) All skim milk and butterfat used to produce any product other than a fluid milk product;

(2) All skim milk and butterfat disposed of in bulk to commercial food processors and used in a food product;

(3) All skim milk authorized by the market administrator to be dumped and all skim milk and butterfat accounted for as disposed of for livestock feed;

(4) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section;

(5) The inventories of fluid milk products on hand at the end of the month;

(6) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1047.42(b)(2); and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1047.42(b)(1), but not to exceed the following:

(i) Two percent of the milk received at a pool plant directly from producers; plus

(ii) One and one-half percent of receipts from a cooperative association in farm bulk tanks, except that, if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations, the applicable percentage shall be two percent; plus

(iii) One and one-half percent of receipts in bulk tanks from other pool plants; plus

(iv) One and one-half percent of receipts in bulk tanks from other order plants, exclusive of the quantity for which Class II utilization was requested by the operator of such plants and the handler; plus

(v) One and one-half percent of receipts in bulk tanks from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of disposition in bulk tanks from pool plants to all other milk plants; and plus

(vii) One-half percent of receipts of producer milk by a cooperative association with respect to milk delivered in farm bulk tanks, unless the exception provided in subdivision (ii) of this subparagraph applies.

8. Section 1047.42 is revised to read as follows:

§ 1047.42 Assignment of shrinkage.

The market administrator shall determine the assignment of shrinkage as follows:

(a) Determine the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amount between (1) the receipts specified in § 1047.41(b)(7), and (2) other source milk received in the form of fluid milk products, exclusive of that specified in § 1047.41(b)(7).

9. Section 1047.44 is revised to read as follows:

§ 1047.44 Transfers.

Skim milk or butterfat transferred or diverted in the form of fluid milk products shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1047.46(a)(8) and the corresponding step of § 1047.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1047.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1047.46(a) (7) or (8) and the corresponding steps of § 1047.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest highway distance as determined by the market administrator, from the Allen County Courthouse in Fort Wayne, Indiana, except that cream so transferred may be classified as Class II if the handler:

(1) Claims classification as Class II; and

(2) Established that (i) such cream was transferred without Grade A certification, (ii) each container was tagged or labeled to show that the contents were for manufacturing use only, (iii) the transfers of such cream was invoiced as suitable for manufacturing use only, and (iv) affords the market administrator at least 24 hours prior notice so that he may verify such shipment;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Allen County Courthouse in Fort Wayne, Indiana, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1047.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in

excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1047.41.

10. Section 1047.46 is revised to read as follows:

§ 1047.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1047.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1047.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other-pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1047.22(1); or

(v) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1047.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1047.47 [Revocation]

11. Section 1047.47 is revoked.

§ 1047.48 [Revocation]

12. Section 1047.48 is revoked.

§ 1047.49 [Revocation]

13. Section 1047.49 is revoked.

14. Section 1047.53 is revised to read as follows:

§ 1047.53 Location differentials to handlers.

(a) For that milk which is received from producers at a pool plant located 60 miles or more from the Allen County Courthouse, Fort Wayne, Indiana, by the shortest accessible highway distance as determined by the market administrator, and which is transferred to another pool plant as Class I milk and assigned Class I location adjustment credit pursuant to paragraph (b) of this section, or otherwise classified as Class I milk, and for other source milk for which a location adjustment credit is applicable the price specified in § 1047.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received:

Distance from Allen County Courthouse, Fort Wayne, Ind. (miles):	*Rate per hundredweight (cents)*
60 but less than 70	10.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1047.8(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

15. Section 1047.62 is revised to read as follows:

§ 1047.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 17th day after the end of the month either of the amounts calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1047.30(e) and 1047.31 the information necessary to compute the amount specified in paragraph (b) of this section, he shall pay the amount computed pursuant to paragraph (a) of this section:

(a) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

(b) Except as a handler may elect the option pursuant to paragraph (a) of this section, he shall receive payments and shall pay such amounts, as the case may be, as follows: *Provided,* That the option contained in this paragraph may be selected for the April through June period only if the operator of the partially regulated distributing plant elects to use this plan for all three of these months:

(1) On or before the 17th day after the end of the month, for the producer-settlement fund, any plus amount resulting from the following computation: *Provided,* That, except during April, May and June, such amount shall not exceed that specified in paragraph (a) of this section:

(i) (a) The obligation that would have been computed pursuant to § 1047.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1047.70(e) and a credit in the amount specified in § 1047.82(b)(2), with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(b) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1047.30(e) and 1047.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1047.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant: *Provided,* That for each of the months of April, May and June an amount equal to eight percent of the applicable Class I price multiplied by the quantity of milk received from dairy farmers at such plant shall be subtracted from the amount computed pursuant to this subdivision: *And provided further,* That during each of the months of September, October and November, an amount equal to one-third of the total amount paid to the producer-settlement fund by such handler pursuant to subparagraph (2) of this paragraph in the immediately preceding months of April, May and June shall be added to the amount computed pursuant to this subdivision;

(ii) Deduct the sum of the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1047.12(b); and any payments made for such month to the producer-settlement fund of another order issued pursuant to

the Act due to the plant being a partially regulated distributing plant under such other order: *Provided,* That gross payments to dairy farmers to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report pursuant to § 1047.31(b), plus the value of any supplies as evidenced by a delivery ticket signed by the dairy farmer: *And provided further,* That payments made to the producer-settlement fund of another order issued pursuant to the Act shall include any payments made pursuant to a provision in such order similar to subparagraph (2) of this paragraph;

(2) On or before the 17th day after the end of each of the months of April, May and June for the producer-settlement fund an amount equal to eight percent of the applicable Class I price multiplied by the quantity of milk received from dairy farmers at such plant; and

(3) On or before the 17th day after the end of each of the months of September, October and November, the market administrator shall pay from the producer-settlement fund to each handler pursuant to this paragraph an amount equal to one-third of the total amount received from such handler pursuant to subparagraph (2) of this paragraph during the immediately preceding months of April, May, and June: *Provided,* That if during any of the months of September, October and November the provisions of this paragraph are not applicable to such handler's plant, the market administrator shall in lieu of the payments pursuant to this subparagraph, include such moneys in the amounts added in computing the uniform price pursuant to § 1047.71(i).

§ 1047.63 [Revocation]

16. Section 1047.63 is revoked.

17. Section 1047.70 is revised to read as follows:

§ 1047.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1047.46(c) by the applicable class prices (adjusted pursuant to §§ 1047.52 and 1047.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1047.46(a)(10) and the corresponding step of § 1047.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1047.46(a)(5) and the corresponding step of § 1047.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1047.46(a)(3) and the corresponding step of § 1047.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1047.46(a)(7) and the corresponding step of § 1047.46(b).

18. Section 1047.71 is revised to read as follows:

§ 1047.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1047.70 for all handlers who filed the reports prescribed by § 1047.30 for the month and who made the payments pursuant to § 1047.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1047.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1047.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1047.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract from the remainder during each of the months of April, May and June, an amount equal to eight percent of the Class I price multiplied by the total hundredweight of producer milk;

(i) Add during each of the months of September, October and November, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

19. Section 1047.73 is revised to read as follows:

§ 1047.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1047.53; and

(b) For purposes of computations pursuant to §§ 1047.82 and 1047.83 the weighted average price shall be adjusted at the rates set forth in § 1047.53 applicable at the location of the nonpool plant from which the milk was received.

20. Section 1047.81 is revised to read as follows:

§ 1047.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the amounts subtracted pursuant to § 1047.71(h) and appropriate payments made by handlers pursuant to § 1047.62, § 1047.82 and all appropriate payments pursuant to § 1047.84 and out of which he shall make payments pursuant to §§ 1047.62, 1047.83, and 1047.71(i) and all appropriate payments pursuant to § 1047.84.

21. Section 1047.82 is revised to read as follows:

§ 1047.82 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1047.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1047.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1047.70(e).

22. Section 1047.83 is revised to read as follows:

§ 1047.83 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1047.82(b) exceeds the amount computed pursuant to § 1047.82(a). If at such time the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the

market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

23. Section 1047.86 is revised to read as follows:

§ 1047.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1047.46(a)(3) and § 1047.46(a)(7) and the corresponding steps of § 1047.46(b), and (c) packaged Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1048—MILK IN THE YOUNGSTOWN-WARREN, OHIO, MARKETING AREA

1. The introductory paragraph of § 1048.7 is revised to read as follows:

§ 1048.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

2. In § 1048.8, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 1048.8 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant or a partially regulated distributing plant.

* * * * *

(d) A producer-handler, or any person who operates an other order plant described in § 1048.61.

3. Section 1048.13 is revised to read as follows:

§ 1048.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which approved milk is shipped to a pool plant.

4. In § 1048.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1048.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1048.45(a)(8) and the corresponding step of § 1048.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1048.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4a. Section 1048.31 is revised to read as follows:

§ 1048.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler specified in § 1048.8(a) who operates a partially regulated distributing plant shall report as required in § 1048.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

§ 1048.32 [Amendment]

5. Amend § 1048.32 by adding a new paragraph (c) to read as follows:

(c) On or before the 20th day after the end of each month each handler, except one electing at the time of reporting to make payments pursuant to § 1048.62(b), operating a partially regulated distributing plant shall submit to the market administrator his payroll for dairy farmers delivering Grade A milk in the same detail as set forth in paragraph (a) of this section.

6. In § 1048.41, paragraph (b)(6)(ii) and (7) is revised to read as follows:

§ 1048.41 Classes of utilization.

* * * * *

(b) * * *

(6) * * *

(ii) One and one-half percent of that received in bulk tank lots from pool plants of other handlers (except that in cream), from other order plants, exclusive of the quantities for which Class II utilization was requested by the operators of such plants and the handler, and from unregulated supply plants, exclusive of the quantities for which Class II utilization was requested by the handler, plus

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(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1048.47(b)(1).

7. Section 1048.43 is revised to read as follows:

§ 1048.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred to another pool plant subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1048.45(a)(8) and the corresponding step of § 1048.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1048.45(a)(3) and the corresponding step of § 1048.45(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1048.45(a)(7) or (8) and the corresponding steps of § 1048.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If the transfer is by a cooperative association, the skim milk and butterfat transferred shall be allocated pro rata to the quantity remaining in each class after making computations pursuant to § 1048.45(a)(1) through (8) and the corresponding steps of § 1048.45(b).

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest highway distance as determined by the market administrator, from the nearer of the Courthouses of Youngstown or Warren, Ohio, except that cream so transferred may be classified as Class II if the following conditions are met:

(1) The transferor-handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the Courthouses in Youngstown or Warren, Ohio, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1048.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in package form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1048.41.

8. Section 1048.45 is revised to read as follows:

§ 1048.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1048.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1048.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, prorata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1048.27(1); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants and from cooperative associations which are the handlers for the milk pursuant to § 1048.8 (c) according to the classification assigned pursuant to § 1048.43(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1048.46 [Revocation]

8a. Section 1048.46 is revoked.

9. Section 1048.47 is revised to read as follows:

§ 1048.47 Shrinkage.

The market administrator shall allocate shrinkage to each pool plant and to a cooperative association in its capacity as a handler pursuant to § 1048.8(c) as follows:

(a) Compute the total shrinkage of skim milk and buttterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between (1) skim milk and butterfat in other source milk received in bulk fluid form exclusive of that specified in § 1048.41(b) (6); and (2) skim milk and butterfat in producer milk (excluding diverted milk) and in receipts in bulk tank lots from other pool plants (except in cream), from other order plants and unregulated supply plants, exclusive of the quantities of receipts from other order plants and unregulated supply plants for which Class II utilization was requested by the handlers, and from cooperative associations in their capacity as handlers pursuant to § 1048.8(c).

10. Section 1048.53 is revised to read as follows:

§ 1048.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant located 50 miles or more from the County Courthouse in either Youngstown or Warren, Ohio, whichever is nearer by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1048.51(a) shall be reduced

at the rate set forth in the following schedule:

	Rate per hundredweight (cents)
Distance (miles):	
50 but not more than 60	10.0
For each additional 10 miles or fraction thereof	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1048.8(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1048.54 [Revocation]

11. Section 1048.54 is revoked.

12. Section 1048.62 is revised to read as follows:

§ 1048.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1048.31(b) and 1048.32(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1048.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1048.70(e) and a credit in the amount specified in § 1048.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1048.31(b) and 1048.32(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1048.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants (except that deducted under a similar provision of another order issued pursuant to the Act);

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or the Class II price, whichever is higher.

13. Section 1048.70 is revised to read as follows:

§ 1048.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1048.45(c), by the applicable class prices (adjusted pursuant to §§ 1048.52 and 1048.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1048.45(a)(10) and the corresponding step of § 1048.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1048.45(a)(5) and the corresponding step of § 1048.45(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1048.45(a)(3) and the corresponding step of § 1048.45(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1048.45(a)(7) and the corresponding step of § 1048.45(b).

14. Section 1048.71 is revised to read as follows:

§ 1048.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1048.70 for all handlers who filed the reports prescribed by § 1048.30 for the month and who made the payments pursuant to §§ 1048.80 and 1048.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1048.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1048.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1048.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

15. Section 1048.73 is revised to read as follows:

§ 1048.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1048.53; and

(b) For purposes of computations pursuant to §§ 1048.82 and 1048.83 the uniform price shall be adjusted at the rates set forth in § 1048.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1048.81 [Amendment]

16. In § 1048.81 the designation "1048.62(a)" is changed to "1048.62 (a) and (b)".

17. Section 1048.82 is revised to read as follows:

§ 1048.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of

(1) The total of the net pool obligation computed pursuant to § 1048.70 for such handler; and

(2) In the case of a cooperative association which is a handler, the minimum amount due from other handlers pursuant to § 1048.80(c);

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1048.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1048.70(e).

18. Section 1048.83 is revised to read as follows:

§ 1048.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1048.82(b) exceeds the amount computed pursuant to § 1048.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

19. Section 1048.86 is revised to read as follows:

§ 1048.86 Expense of administration.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator, four cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, except producer milk received by a cooperative association as a handler pursuant to § 1048.8(c); (b) milk received from a cooperative association as a handler pursuant to § 1048.8(c); (c) other source milk allocated to Class I pursuant to § 1048.45(a)(3) and § 1048.45(a)(7) and the corresponding steps of § 1048.45(b); and (d) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1049—MILK IN INDIANAPOLIS, INDIANA, MARKETING AREA

1. Section 1049.7 is revised to read as follows:

§ 1049.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant directly from the farm of such producer or is caused to be diverted by a handler as producer milk pursuant to § 1049.14. "Producer" shall not include any person with respect to milk which is fully subject to pricing and pooling under another order issued pursuant to the Act.

2. Section 1049.8 is revised to read as follows:

§ 1049.8 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.14;

(c) Any person who operates a partially regulated distributing plant; or

(d) A producer-handler, or any person who operates an other order plant.

3. Section 1049.13 is revised to read as follows:

§ 1049.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

4. In § 1049.27 additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1049.27 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1049.46(a)(8) and the corresponding step of § 1049.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1049.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1049.30 paragraph (b) is revised to read as follows:

§ 1049.30 Reports of receipts and utilization.

* * * * *

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk on routes inside the marketing area; and

* * * * *

6. Section 1049.31 is revised to read as follows:

§ 1049.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler specified in § 1049.8 (c) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1049.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk.

7. In § 1049.32, paragraph (b) is revised to read as follows:

§ 1049.32 Payroll reports.

* * * * *

(b) Each handler, except one who elects to make payments pursuant to § 1049.62(b), operating a partially regulated distributing plant shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received the same information as required from handlers operating pool plants pursuant to paragraph (a) of this section.

8. § 1049.41, paragraph (b) (6) and (7) is revised to read as follows:

§ 1049.41 Classes of utilization.

* * * * *

(b) * * *

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1049.42(b) (2) and (3) not to exceed the following:

(i) Two percent of that physically received direct from producers' farms and by diversion from other pool plants; plus

(ii) One and one-half percent of bulk receipts from other pool plants (except bulk cream), bulk receipts from other order plants, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and bulk receipts from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(iii) One and one-half percent of that transferred in bulk to other plants (except bulk cream); and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1049.42(b) (1).

9. Section 1049.42 is revised to read as follows:

§ 1049.42 Shrinkage.

The market administrator shall assign shrinkage to each handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat; and

(b) Prorate the resulting amounts among (1) skim milk and butterfat in other source milk received in bulk fluid form, exclusive of that specified in § 1049.41(b)(6)(ii); (2) skim milk and butterfat in producer milk (excluding milk diverted to other plants pursuant to § 1049.14); and (3) skim milk and butterfat in bulk fluid receipts including diversions (except bulk cream) from other pool plants, from other order plants and unregulated supply plants, exclusive of the quantities received from other order plants and unregulated supply plants for which Class II utilization was requested by the handlers, in excess of transfers of bulk fluid milk products (except bulk cream) to other plants.

10. Section 1049.44 is revised to read as follows:

§ 1049.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1049.46(a)(8) and the corresponding step of § 1049.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1049.46(a)(3), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1049.46(a)(7) or (8) and the corresponding steps of § 1049.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance as determined by the market administrator, from Monument Circle in Indianapolis, Indiana, except that cream so transferred may be classified as Class II if the following conditions are met:

(1) The transferor handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator from Monument Circle in Indianapolis, Indiana, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1049.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified at Class II to the extent of the Class II utilization (or comparable utilization under such other order) available

for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1049.41.

11. Section 1049.46 is revised to read as follows:

§ 1049.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1049.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1049.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1049.27(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1049.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1049.53 is revised to read as follows:

§ 1049.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant 70 miles or more from Monument Circle in Indianapolis, Indiana, by the shortest hard-surfaced highway distance as determined by the market administrator and which milk is

classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1049.51(a) shall be reduced at a rate set forth in the following schedule.

Distance (miles):	*Rate per hundredweight (cents)*
70 but less than 80	10.0
For each additional 10 miles or fraction thereof	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1049.62 which reads as follows is added:

§ 1049.62 Obligations of a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1049.30 and 1049.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1049.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1049.70(e) and a credit in the amount specified in § 1049.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1049.30 and 1049.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1049.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants (except that deducted under a similar provision of another order issued pursuant to the Act);

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is greater.

14. Section 1049.70 is revised to read as follows:

§ 1049.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1049.46(c), by the applicable class prices (adjusted pursuant to §§ 1049.52 and 1049.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1049.46(a)(10) and the corresponding step of § 1049.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.46(a)(5) and the corresponding step of § 1049.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1049.46(a)(3) and the corresponding step of § 1049.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1049.46(a)(7) and the corresponding step of § 1049.46(b).

15. Section 1049.71 is revised to read as follows:

§ 1049.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1049.70 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1049.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1049.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract from the remainder during each of the months of April through July an amount equal to eight percent of the Class I price multiplied by the total hundredweight of producer milk;

(i) Add during each of the months of September through December one-fourth of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

16. Section 1049.73 is revised to read as follows:

§ 1049.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.53; and

(b) For purposes of computations pursuant to §§ 1049.82 and 1049.83 the weighted average price shall be adjusted at the rates set forth in § 1049.53 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1049.82 is revised to read as follows:

§ 1049.82 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1049.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1049.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1049.70(e).

18. Section 1049.83 is revised to read as follows:

§ 1049.83 Payments out of the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.82(b) exceeds the amount computed pursuant to § 1049.82(a): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

19. Section 1049.86 is revised to read as follows:

§ 1049.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1049.46 (a)(3) and § 1049.46(a)(7) and the corresponding steps of § 1049.46(b), and (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1090—MILK IN CHATTANOOGA, TENNESSEE, MARKETING AREA

1. Section 1090.6 is revised to read as follows:

§ 1090.6 Producer.

"Producer" means any approved dairy farmer, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk which is:

(a) Received during the month at a pool plant: *Provided,* That this definition shall not include any approved dairy farmer with respect to milk produced by him which is subject to the pricing and payment provisions of the order regulating the handling of milk in the Knoxville, Tennessee, marketing area (Part 1101 of this chapter); or

(b) Diverted from a pool plant by a handler to a nonpool plant not an other order plant for his account any day during the months of March through July or on not more than 10 days during any other month. The milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which diverted.

2. Section 1090.8 is revised to read as follows:

§ 1090.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

3. Section 1090.9 is revised to read as follows:

§ 1090.9 Handler.

"Handler" means (a) any person in his capacity as the operator of one or more pool plants; (b) any person who operates a partially regulated distributing plant; (c) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1090.6; and (d) a producer-handler, or any person who operates an other order plant described in § 1090.61.

4. In § 1090.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1090.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1090.46(a)(8) and the corresponding step of § 1090.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1090.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4.A. Section 1090.30 is revised to read as follows:

§ 1090.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month each handler shall report for each of his pool plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk;

(2) Fluid milk products received from other pool plants;

(3) Other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including separate statements as to the disposition of Class I milk outside the marketing area; and

(6) Such other information with respect to his receipts and utilization of butterfat and skim milk as the market administrator may prescribe.

(b) Each handler specified in § 1090.9 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

5. Section 1090.31 is revised to read as follows:

§ 1090.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who receives milk from producers shall report to the market administrator, in the detail and on forms prescribed by the market administrator:

(1) On or before the 6th day of each of the months of April through August, the aggregate quantity of base milk received at pool plant(s) for the preceding month;

(2) On or before the 20th day after the end of the month, his producer payroll for such month which shall show for each producer: (i) His name and address; (ii) the total pounds of milk received at each pool plant from such producer, including for the months of March through July, the pounds of base milk; (iii) the days for which milk was received from such producer if less than the entire month; (iv) the average butterfat content of such milk; and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;

(3) On or before the day prior to diverting producer milk pursuant to § 1090.6, his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(c) Each handler who is the operator of a partially regulated distributing plant pursuant to § 1090.9(b), who does not elect to make payments pursuant to § 1090.62(b), shall report for each such plant to the market administrator, in the detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month, his dairy farmer payroll for such month which shall show for each dairy farmer:

(1) His name and address;

(2) The total pounds of milk received from such dairy farmer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment to the dairy farmer together with the price paid and the amount and nature of any deductions.

6. Sections 1090.40 and 1090.41 are revised. Sections 1090.42, 1090.43, 1090.44, and 1090.45 are redesignated §§ 1090.43, 1090.44, 1090.45, and 1090.46, respectively, and a new § 1090.42 is added. The redesignated §§ 1090.44 and 1090.46 are revised. The text of §§ 1090.40 through 1090.46 which appear under the centerhead "Classification of Milk", as revised and redesignated, now read as follows:

CLASSIFICATION OF MILK

§ 1090.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported for pool plants pursuant to § 1090.30 shall be classified each month pursuant to the provisions of §§ 1090.41 through 1090.46.

§ 1090.41 Classes of utilization.

Subject to the conditions set forth in §§ 1090.42 through 1090.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b)(4) of this section;

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Contained in inventories of fluid milk products on hand at the end of the month;

(4) Skim milk disposed of and used for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1090.42(b)(1) but not in excess of, two percent of the total receipts of skim milk or butterfat in: (i) producer milk (except that diverted pursuant to § 1090.6), (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1090.42(b)(2).

§ 1090.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat contained in producer milk and other milk receipts specified in § 1090.41(b)(5); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1090.41(b)(5).

§ 1090.43 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this order shall be classified Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 1090.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization reported pursuant to § 1090.30 by the operator(s) of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1090.46(a)(8) and the corresponding step in § 1090.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1090.46(a)(3), and the corresponding step in § 1090.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1090.46(a)(7) or (8) and the corresponding steps of § 1090.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in the form of milk or skim milk in bulk or diverted to a nonpool plant that is

neither an other order plant nor a producer-handler plant, located 250 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Chattanooga, Tennessee;

(d) As Class I milk, if transferred in the form of milk or skim milk in bulk or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located less than 250 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Chattanooga, Tennessee, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1090.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and then next pro rata to receipts from other order plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk not to exceed the equivalent amount of skim milk and butterfat, respectively, actually utilized as Class II milk in the nonpool plant;

(e) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant not an other order plant shall be classified as Class I milk unless:

(1) The transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1090.30;

(2) The handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only" and the shipment is so invoiced;

(3) The handler gives the market administrator sufficient notice to allow him to verify such shipment;

(4) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification;

(5) Not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report;

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1090.41.

§ 1090.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1090.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1090.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1090.45, the market administrator shall determine the classification of producer milk at all pool plants for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1090.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted

pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1090.27(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1090.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

6a. In § 1090.51(a), subparagraph (3) is revised to read as follows:

§ 1090.51 Class prices.

* * * * *

(a) * * *

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk (excluding the skim milk and butterfat in fluid milk products received during the month in the same product and same package from a plant fully regulated pursuant to Order No. 101 (Part 1101 of this Chapter) regulating the handling of milk in the Knoxville marketing area), disposed of from all pool plants for the first and second preceding months into the total hundredweight of producer milk for the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

7. Section 1090.53 is revised to read as follows:

§ 1090.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 65 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Chattanooga, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1090.70, the price computed pursuant to § 1090.51(a) shall be reduced by 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant, which is in excess of the sum of receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1090.54 [Revocation]

8. Section 1090.54 is revoked.

9. Section 1090.62 is revised to read as follows:

§ 1090.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1090.30(b) and 1090.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1090.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1090.70(e) and a credit in the amount specified in § 1090.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1090.30(b) and 1090.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1090.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

10. Section 1090.70 is revised to read as follows:

§ 1090.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1090.9 (a) and (c) during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1090.46(c), by the applicable class prices (adjusted pursuant to §§ 1090.52 and 1090.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1090.46(a)(10) and the corresponding step of § 1090.46(b), by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1090.46(a)(5) and the corresponding step of § 1090.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1090.46(a)(3) and the corresponding step of § 1090.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1090.46(a)(7) and the corresponding step of § 1090.46(b).

11. Section 1090.71 is revised to read as follows:

§ 1090.71 Computation of weighted average and uniform prices

For each month the market administrator shall compute the weighted average price and for each of the months of August through February, the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1090.70 for all handlers who filed the reports prescribed by § 1090.30 for the month and who made the payments pursuant to §§ 1090.80 and 1090.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1090.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1090.73 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included in paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1090.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of August through February.

12. Section 1090.72 is revised to read as follows:

§ 1090.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the total value of excess milk for all handlers included in the computations pursuant to § 1090.71(a) as follows: (1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price; (2) multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the amount resulting from the computations of § 1090.71 (a) through (d), subtract an amount computed by multiplying the hundredweight of milk specified in § 1090.71(e)(2) by the weighted average price;

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

13. Section 1090.74 is revised to read as follows:

§ 1090.74 Location differentials to producers and on nonpool milk.

(a) The applicable unform prices computed pursuant to §§ 1090.71 and 1090.72 to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant where such milk was received each at the rates set forth in § 1090.53; and

(b) For purposes of computations pursuant to §§ 1090.82 and 1090.83 the weighted average price shall be reduced at the rates set forth in § 1090.53 applicable at the location of the nonpool plant from which the milk was received.

14. Section 1090.82 is revised to read as follows:

§ 1090.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1090.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices pursuant to §§ 1090.71 and 1090.72 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1090.70(e).

15. Section 1090.83 is revised to read as follows:

§ 1090.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1090.82(b) exceeds the amount computed pursuant to § 1090.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

16. Section 1090.86 is revised to read as follows:

§ 1090.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to skim milk and butterfat contained in (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1090.46(a) (3) and (7) and the corresponding steps of § 1090.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

1. Section 1098.7 is revised to read as follows:

§ 1098.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority or produces milk acceptable for fluid consumption at Federal, State or municipal establishments within the marketing area, which milk is received at a pool plant or diverted from the farm directly to a nonpool plant not an other order plant for the account of a cooperative association or of a handler operating a pool plant. Milk so diverted shall be deemed to have been received at the pool plant from which diverted if for the account of a handler operating such pool plant or at a pool plant at the location of the pool plant from which diverted if for the account of a cooperative association.

2. In § 1098.8, paragraph (a) is revised and new paragraphs (d) and (e) are added to read as follows:

§ 1098.8 Handler.

* * * * *

(a) Any person in his capacity as the operator of one or more pool plant(s);

* * * * *

(d) Any person who operates a partially regulated distributing plant; or

(e) A producer-handler, or any person who operates an other order plant described in § 1098.91.

3. Section 1098.12 is revised to read as follows:

§ 1098.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

4. In § 1098.22, additional paragraphs (k), (l), and (m) are added and read as follows:

§ 1098.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1098.46(a)(8) and the corresponding step of § 1098.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1098.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4a. Section 1098.30 is revised to read as follows:

§ 1098.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month, each handler, except a handler as defined pursuant to § 1098.8(e), shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator the following:

(a) The quantities of skim milk and butterfat contained in producer milk (showing separately such milk received from a cooperative association pursuant to § 1098.8(c)), except that a handler as specified in § 1098.8(d) who operates a partially regulated distributing plant shall report receipts of Grade A milk from dairy farmers in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section including a separate statement of the disposition of Class I milk outside the marketing area; and

(f) Such other information with respect to his reports of receipts and utilization as the market administrator may prescribe.

5. Section 1098.31 is revised to read as follows:

§ 1098.31 Payroll reports.

(a) Each handler who operates a pool plant shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 6th day after the end of each month, for each producer from whom milk was received: (i) his name and address; (ii) the total pounds and butterfat content of milk received during the month; (iii) the total pounds of base milk and total pounds of excess milk for the month; and (iv) the amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered;

(2) On or before the 21st day of each month, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer; and

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1098.92(b) shall report to the market administrator on or before the 15th day after the end of the month for each dairy farmer from whom Grade A milk was received: (1) his name and address; (2) the total pounds and butterfat content of milk received from such dairy farmer during the month; and (3) the amount of any deductions authorized in writing by such dairy farmer to be made from payments due for milk delivered.

6. Section 1098.41 is revised to read as follows:

§ 1098.41 Classes of utilization.

Subject to the conditions set forth in §§ 1098.42 through 1098.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b)(3) of this section;

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Disposed of and used for livestock feed, and skim milk dumped after prior notification to, and opportunity for verification by the market administrator;

(4) Contained in inventories of fluid milk products on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1098.42(b)(1) but not to exceed the following:

(i) Two percent of skim milk and butterfat, respectively, received from producers (except that diverted pursuant to § 1098.7) and in milk received from a cooperative for which the cooperative association is a handler pursuant to § 1098.8(c); plus

(ii) One and one-half percent of skim milk and butterfat, respectively, received in bulk tank lots from pool plants; plus

(iii) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products received in bulk tank lots from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(iv) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products received in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(v) One and one-half percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to pool plants; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1098.42(b)(2).

7. Section 1098.42 is revised to read as follows:

§ 1098.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts specified pursuant to § 1098.41(b)(5); and (2) skim milk and butterfat in other source milk exclusive of that specified in § 1098.41(b)(5).

8. Section 1098.44 is revised to read as follows:

§ 1098.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred from a pool plant or a cooperative association as a handler pursuant to § 1098.8(c) to a pool plant of another handler unless Class II utilization is indicated by the transferee and transferor handlers in their reports pursuant to § 1098.30 for the month, subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1098.46(a)(8) and the corresponding step of § 1098.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1098.46(a)(3) and the corresponding step of § 1098.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1098.46(a)(7) or (8) and the corresponding steps of § 1098.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in bulk as milk, skim milk or cream or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant located 250 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee;

(d) As Class I milk, if transferred in bulk as milk, skim milk or cream or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located less than 250 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignments set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1098.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1098.41.

9. Section 1098.46 is revised to read as follows:

§ 1098.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1098.45, the market administrator shall determine the classification of producer milk at the pool plant(s) of each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1098.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1098.8(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1098.22(k) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and from a cooperative association in its capacity as a handler pursuant to § 1098.8(c) according to the classification assigned pursuant to § 1098.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1098.53 is revised to read as follows:

§ 1098.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located outside the State of Tennessee and 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, and for other source milk assigned Class I location adjustment credit pursuant to § 1098.70, the price computed pursuant to § 1098.51(a) shall be reduced by 10.0 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant which is in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1098.8(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

11. Section 1098.70 is revised to read as follows:

§ 1098.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1098.8 (a), (b), and (c) during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to §1098.46(c), by the applicable class prices (adjusted pursuant to §§ 1098.52 and 1098.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1098.46(a)(10) and the corresponding step of § 1098.46(b), by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.46(a)(5) and the corresponding step of § 1098.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1098.46(a)(3) and the corresponding step of § 1098.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1098.46(a)(7) and the corresponding step of § 1098.46(b).

12. Section 1098.71 is revised to read as follows:

§ 1098.71 Computation of uniform and weighted average prices.

For each month the market administrator shall compute the weighted average price and for each of the months of August through February the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1098.70 for all handlers who filed the reports prescribed by § 1098.30 for the month and who are not in default of payments pursuant to § 1098.81;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1098.83 (b) and (c);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1098.83 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included in paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1098.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of August through February.

13. Section 1098.72 is revised to read as follows:

§ 1098.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1098.71 (a) as follows: (1) Multiply the quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price, (2) multiply the remaining quantity of excess milk by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the amount resulting from the computations pursuant to § 1098.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1093.71(e) (2) by the weighted average price;

(d) Subtract from the value determined pursuant to paragraph (c) of this section, the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section, the resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

14. Section 1098.81 is revised to read as follows:

§ 1098.81 Payments to market administrator.

(a) On or before the 25th day of each month each handler receiving milk from producers, except a cooperative association, shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month;

(b) On or before the 12th day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's net obligation for such month as determined pursuant to § 1098.70 less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1098.70(e) by the weighted average price computed pursuant to § 1098.71 adjusted by the producer butterfat differential pursuant to § 1098.83(a) and the location differential on nonpool milk pursuant to § 1098.83 (c); and

(3) Proper deductions authorized in writing by producers from whom such handler received milk.

15. In § 1098.83, the section heading and paragraphs (b) and (c) are revised to read as follows:

§ 1098.83 Butterfat and location differentials to producers and on nonpool milk.

* * * * *

(b) In making payments to producers pursuant to § 1098.82(b), the uniform price pursuant to § 1098.71 and the uniform base price pursuant to § 1098.72 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1098.53; and

(c) For purposes of computations pursuant to § 1098.81(b) the weighted average price shall be reduced at the rates set forth in § 1098.53 (not to be less than the value at the Class II price) applicable at the location of the nonpool plant(s) from which the milk was received.

16. Section 1098.85 is revised to read as follows:

§ 1098.85. Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of: (a) producer milk (including such handler's own production and excluding milk received by a cooperative association in its capacity as a handler pursuant to § 1098.8(c)); (b) milk received from a cooperative association pursuant to § 1098.8(c); (c) other source milk allocated to Class I pursuant to § 1098.46 (a) (3) and (7) and the corresponding steps of § 1098.46(b); and (d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

17. Section 1098.92 is revised to read as follows:

§ 1098.92 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1098.30 and 1098.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1098.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1098.70(e) and a credit in the amount specified in § 1098.81(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1098.30 and 1098.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1098.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A Milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as

Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

PART 1101—MILK IN KNOXVILLE, TENNESSEE, MARKETING AREA

1. Section 1101.10 is revised to read as follows:

§ 1101.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which Grade A fluid milk products are shipped to a pool plant.

2. Section 1101.11 is revised to read as follows:

§ 1101.11 Handler.

"Handler" means (a) any person in his capacity as the operator of one or more pool plants, (b) any person who operates a partially regulated distributing plant, (c) a cooperative association with respect to milk diverted for its account pursuant to § 1101.12; or (d) a producer-handler or any person who operates an other order plant described pursuant to § 1101.91 (a) or (b).

3. Section 1101.12 is revised to read as follows:

§ 1101.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant: *Provided*, That if such milk is diverted for his account by a handler from a pool plant to a nonpool plant, not an other order plant (except an other order plant fully subject to the provisions of Part 1090 regulating the handling of milk in the Chattanooga, Tennessee, marketing area), (a) any day during the months of March through August, or (b) on not more than 10 days during the month in any of the other months of the year, the milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which it was diverted.

4. A new § 1101.17 is added under the centerhead "Definitions" to read as follows:

§ 1101.17 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, and any cream product except frozen cream and ice cream mix.

4A. In § 1101.22, additional paragraphs (k), (l), and (m) are added and read as follows:

§ 1101.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1101.46(a)(9) and the corresponding step of § 1101.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1101.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and

butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1101.30 is revised to read as follows:

§ 1101.30 Reports of receipts and utilization.

(a) On or before the 6th day after the end of each month each handler shall report for each pool plant for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in producer milk including for the months of April through August a statement of the aggregate quantity of base milk;

(2) The quantities of skim milk and butterfat contained in fluid milk products received from other handlers;

(3) The quantities of skim milk and butterfat contained in other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(6) Such other information with respect to his receipts and utilization of butterfat and skim milk as the market administrator may prescribe;

(b) Each handler specified in § 1101.11(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

6. In § 1101.31, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 1101.31 Other reports.

* * * * *

(b) Each handler receiving milk from producers shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(i) The total pounds of milk received from such producer or cooperative association, including, for the months of April through August, the total pounds of base and excess milk;

(ii) The days on which milk was received from such producer, if less than a full month;

(iii) The average butterfat content of such milk; and

(iv) The net amount of such handler's payment, to each producer or cooperative association, together with the price paid and the amount and nature of any deductions; and

(2) On or before the first day other source milk is received in the form of fluid milk products at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product.

(c) Each handler who is the operator of a partially regulated distributing plant pursuant to § 1101.11(b) and who does not elect to make payments as required pursuant to § 1101.92(b), shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his plants his dairy farmer payroll for such month which shall show for each dairy farmer:

(1) His name and address;

(2) The total pounds of milk received from such dairy farmer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, to each dairy farmer, together with the price paid and the amount and nature of any deductions.

7. Section 1101.41 is revised to read as follows:

§ 1101.41 Classes of utilization.

Subject to the conditions set forth in §§ 1101.42 through 1101.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b)(3) of this section;

(2) In inventory of fluid milk products designated as Class I milk pursuant to subparagraph (1) of this paragraph; and

(3) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any item other than those specified in paragraph (a) of this section;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Disposed of and used for livestock feed or skim milk dumped after prior notification to, and opportunity for verification by the market administrator;

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1101.42(c); and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1101.42(b)(2).

8. Section 1101.42 is revised to read as follows:

§ 1101.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat in the pool plant(s) of the handler;

(b) Prorate the resulting amount to:

(1) Receipts of skim milk and butterfat contained in (i) producer milk (except milk diverted pursuant to § 1101.12), (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(2) Receipts of skim milk and butterfat in other source milk, exclusive of that specified in subparagraph (1) of this paragraph; and

(c) Multiply the pounds of shrinkage in skim milk and butterfat, respectively, prorated pursuant to paragraph (b)(1) of this section not to exceed 2.5 percent of the pounds of skim milk and butterfat, respectively, in receipts described therein by the percentage of skim milk and butterfat classified pursuant to § 1101.41(a) and (b)(1) through (3) which is in Class II milk. The resulting amount shall be the pounds of skim milk and butterfat assigned to Class II milk pursuant to § 1101.41(b)(4).

9. Section 1101.44 is revised to read as follows:

§ 1101.44 Transfers.

Skim milk and butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred or diverted by a handler from a pool plant to a pool plant of another handler in the form of fluid milk products unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1101.30: *Provided*, That the classification of such transfer is subject to the following:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1101.46(a)(9) and the corresponding step in § 1101.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 11.01.46(a)(5) and the corresponding step in § 1101.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1101.46(a)(8) or (9) and the corresponding step of § 1101.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in bulk in the form of milk, skim milk or

cream or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1101.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and then pro rata to receipts from pool plants and other order plants not regulated by such order; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk not to exceed the equivalent amount of skim milk and butterfat, respectively, actually utilized as Class II milk in the nonpool plant: *Provided,* That if the transferee nonpool plant disposes of fluid cream to another nonpool plant such cream shall be classified as Class II milk if the requirements of subparagraphs (1) and (2) are met and the availability of Class II use is determined pursuant to this subdivision as applied to the second transferee plant;

(d) As follows, if transferred to an other order plant, or if diverted to a plant specified in subparagraph (2) of this paragraph, in either case in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk to any other order plant, or diverted to an other order plant fully subject to the provisions of Part 1090 regulating the handling of milk in the Chattanooga, Tennessee, marketing area, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1101.41.

10. Section 1101.46 is revised to read as follows:

§ 1101.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1101.45, the market administrator shall determine the classification of producer milk at all pool plants for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1101.41(b)(4);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant or the pounds of skim milk classified as Class I milk and transferred during the month to such nonpool plant, whichever is less;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class I, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraphs (2) and (6)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (6)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to §1101.22(k) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1101.44(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any

amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1101.53 is revised to read as follows:

§ 1101.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Knoxville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1101.70, the price computed pursuant to § 1101.51(a) shall be reduced by 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant, which is in excess of the sum of receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply;

12. Section 1101.70 is revised to read as follows:

§ 1101.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1101.11 (a) and (c) during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1101.46(c), by the applicable class prices (adjusted pursuant to §§ 1101.52 and 1101.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1101.46(a)(11) and the corresponding step of § 1101.46(b), by the applicable class prices;

(c) Add or subtract, as the case may be, an amount necessary to adjust for errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1101.46(a)(5) and the corresponding step of § 1101.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1101.46(a)(8) and the corresponding step of § 1101.46(b).

13. Section 1101.71 is revised to read as follows:

§ 1101.71 Computation of weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and for each of the months of September through March the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1101.70 for all handlers who filed the reports prescribed by § 1101.30 for the month and who are not in default of payments pursuant to §§ 1101.80 and 1101.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1101.85(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1101.85(a) and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included in paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1101.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers in each of the months of September through March.

14. Section 1101.72 is revised to read as follows:

§ 1101.72 Computation of uniform prices for base milk and excess milk.

For each of the months of April through August, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the total value of excess milk for all handlers included in the computations pursuant to § 1101.71(a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk for such handlers by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) From the amount resulting from the computations of § 1101.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1101.70(e) by the weighted average price;

(d) Subtract from the amount computed pursuant to paragraph (c) of this section the total value of excess milk, determined by multiplying the uniform price for excess milk determined pursuant to paragraph (b) of this section by the hundredweight of excess milk;

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price per hundredweight for base milk of 3.5 percent butterfat content f.o.b. market.

15. Section 1101.82 is revised to read as follows:

§ 1101.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1101.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1101.71 and 1101.72 adjusted by the producer butterfat and location differentials pursuant to § 1101.85; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1101.70(e).

16. Section 1101.83 is revised to read as follows:

§ 1101.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1101.82(b) exceeds the amount computed pursuant

to § 1101.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

17. Paragraph (b) in § 1101.85 is revised to read as follows:

§ 1101.85 Butterfat and location differentials to producers.

* * * * *

(b) *Location differential to producers and on nonpool milk.* (1) The applicable uniform price computed pursuant to § 1101.71 and the uniform base price computed pursuant to § 1101.72 to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1101.53; and

(2) For purposes of computations pursuant to §§ 1101.82 and 1101.83 the weighted average price shall be reduced at the rates set forth in § 1101.53 applicable at the location of the nonpool plant from which the milk was received.

18. Section 1101.87 is revised to read as follows:

§ 1101.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to skim milk and butterfat contained in (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1101.46 (a) (5) and (8) and the corresponding steps of § 1101.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

19. Section 1101.92 is revised to read as follows:

§ 1101.92 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1101.30(b) and 1101.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1101.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1101.70(e) and a credit in the amount specified in § 1101.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1101.30(b) and 1101.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1101.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1101.93 [Revocation].

20. Section 1101.93 is revoked.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: August 1, 1964.

Signed at Washington, D.C., on July 22, 1964.

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